

O-269-09

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION No. 2472271
BY NORMAS CATERING LTD TO REGISTER THE TRADE MARK**

The logo for 'Normas' is rendered in a blue, cursive script. The letter 'N' is the most prominent feature, with a large, circular flourish that loops around the top and left side of the word. The rest of the word 'ormas' follows in a similar cursive style.

IN CLASSES 35, 39 AND 43

**AND IN THE MATTER OF OPPOSITION
THERE TO UNDER NO 97019
BY NORMA LEBENSMITTELFILIALBETRIEB GMBH & CO KG**

TRADE MARKS ACT 1994

**IN THE MATTER OF Application No. 2472271
By Normas Catering Ltd to register the trade mark**



in classes 35, 39 and 43

and

**IN THE MATTER OF Opposition thereto under No. 97019
by Norma Lebensmittelfilialbetrieb GmbH & Co KG**

BACKGROUND

1) On 14th November 2007 Normas Catering Ltd (hereafter "NC") of The Guardhouse Anchor Wharf, The Historic Dockyard, Chatham, Kent ME4 4TE applied to register the following trade mark:



2) The application was made in respect of the following services:

Class 35:

Administration of the business affairs of franchises; business assistance relating to the establishment of franchises; provision of assistance [business] in the establishment of franchises; provision of assistance [business] in the operation of franchises.

Class 39:

Food delivery services; delivery of food and drink prepared for consumption.

Class 43:

Café services; cafes, cafeteria services; cafeterias; mobile catering services; catering services; business catering services.

3) On 1st February 2008 the application was published for opposition purposes, and on 1st May 2008 Norma Lebensmittelfilialbetrieb GmbH & Co KG (hereafter "NL") of Heisterstr, 4, 90441 Nurnberg, Germany (hereafter "NL") filed notice of opposition to the application. The opposition is solely based on grounds under Section 5(2)(b) of the Trade Marks Act 1994 ("the Act").

4) NL rely on six earlier registrations. Their respective specifications are lengthy and for that reason I have annexed the full details to this decision. For ease of reference, the following table shows abbreviated details of the earlier marks:

Mark Number	Mark	Date of filing	Date of registration	Classes
CTM 213769 ("769")	NORMA	1 st April 1996	19 th June 2002	3, 5, 8, 16, 18, 21, 25, 28, 29, 30, 31, 32, 33, 34, 35, 36
CTM 3268026 ("026")	NORMA	15 th July 2003	8 th February 2005	35, 41, 42
CTM 4306841 ("841")	NORMA	24 th February 2005	28 th July 2009	3, 5, 8, 9, 11, 16, 18, 21, 22, 23, 25, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 41, 42
CTM 6338611 ("611")		5 th October 2007	29 th September 2008	3, 5, 29, 30, 31, 32, 33, 35
CTM 5052535 ("535")	norma-online	3 rd May 2006	6 th February 2008	29, 30, 35, 38
CTM 4952149 ("149")	norma-direct	10 th March 2006	26 th July 2007	29, 30, 35,

5) NC filed a counterstatement denying the grounds of opposition and accompanied this with some background (entitled "Observations") on their use of the mark the subject of the application. Whilst these are not strictly relevant as the legal test to be applied is a notional one based upon the respective marks and specifications, I will nonetheless

recount this by way of background information and for the sake of completeness. They say they are a well established catering company. Norma's café was originally established in Gravesend, Kent in 1983, providing café, delivery and general catering services to the domestic and business sectors. They became a limited company in 2006 and services are offered via a website www.normascatering.co.uk. They receive up to one thousand food orders per day and have plans to extend the business beyond the base in the South East and to franchise the Norma's brand throughout the UK. NC's brand is particularly targeted towards the office worker and its main source of income is derived from deliveries of lunch time meals to clients' work places. They also cater for private (including corporate) functions and provide event management, venturing into the yacht industry offering catered cruises for small parties.

6) Formal evidence was filed by NL which I shall summarise below. Neither party asked for a hearing and this decision is taken after a careful study of the papers. Concluding submissions were filed by NL's attorneys which I shall take into account in my decision. Both parties ask for costs.

NL's evidence

7) Richard Waddington has provided a witness statement dated 13th January 2009. He is a trade mark attorney and partner with Appleyard Lees, the attorneys acting for NL. The evidence he gives comes from information given to him. Exhibit RW1 is an article from PLANET RETAIL, an online publisher and information resource. The article is on global discount (grocery) retailing during 2008. It shows that NL is in the top 10 of global discounters, a list headed by ALDI.

8) Exhibit RW2 is an article on discount grocery chains published by Elsevier Food International (Vol 8 No 2 from May 2005). NL is listed on the first page as being one of a group of multinational 'hard discount' chains.

9) Exhibit RW3 is a further article from the same publication (Vol 8, No 4 from November 2005), this time concentrating on NL itself. The article says that NL has 2.7 billion euros of sales making it the smallest in turnover terms of the hard-discount sector in Germany, headed by the ALDI and LIDL chains. The article traces the history of the company and its expansion into France in 1989 (114 stores in 2005), the Czech Republic in 1992 (34 stores in 2005), Austria in 2005 (3 stores in 2005). In its German base the chain has 1,194 stores in 2005. The article notes that expansion has been prudent, with attention to detail like eg sourcing local products in Austria, the attraction of high quality managers and the need to be geographically proximate to the German base, for logistical reasons. The proximity issue has no doubt contributed to the lack of expansion into the UK market with no use being shown in that retail market to date.

DECISION

Section 5(2) (b)

10) The opposition is founded upon Section 5(2) (b) of the Act. This reads:

“(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.”

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

12) All NL’s registrations comprise earlier marks. Only one of those marks, ‘769, is subject to proof of use requirements (section 6A of the Act), in that the registration date is earlier than five years before the date of publication of NC’s application. NL say in their statement of use in relation to that mark they have used that mark on all goods and services. Attorneys for NC have put them to proof that their earlier marks have been used on services included only in classes 35 and 39. The point is academic as, (a) ‘769 has no services in class 39 in any event, and (b) other and later registrations have also been relied upon by NL which are not subject to proof of use requirements and which cover the same services as ‘769 in classes 35 and, unlike ‘769, services in class 39. As such, NL’s case is no stronger when relying on ‘769 than it is when relying on its other, later registrations. Accordingly I have no need to further consider proof of use issues, but will nonetheless exclude from my analysis the class 35 services of ‘769.

13) In my consideration of a likelihood of confusion, I take into account the guidance from the settled case law provided by the European Court of Justice (“ECJ”) in *Sabel BV v Puma AG* [1998] RPC 199, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc* [1999] RPC 117, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* [2000] F.S.R. 77 and *Marca Mode CV v Adidas AG & Adidas Benelux BV* [2000] E.T.M.R. 723, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH* C-120/04 and *Shaker di L. Laudato & C. Sas v Office for Harmonisation in the Internal Market (Trade*

Marks and Designs) (OHIM) C-334/05 P (LIMONCELLO). It is clear from these cases that:

(a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors; *Sabel BV v Puma AG*,

(b) the matter must be judged through the eyes of the average consumer of the goods/services in question; *Sabel BV v Puma AG*, 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; *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel B.V.*,

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details; *Sabel BV v Puma AG*,

(d) the visual, aural and conceptual similarities of the marks must therefore be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components; *Sabel BV v Puma AG*,

(e) a lesser degree of similarity between the marks may be offset by a greater degree of similarity between the goods, and vice versa; *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc.*,

(f) there is a greater likelihood of confusion where the earlier trade mark has a highly distinctive character, either per se or because of the use that has been made of it; *Sabel BV v Puma AG*,

(g) in determining whether similarity between the goods or services covered by two trade marks is sufficient to give rise to the likelihood of confusion, the distinctive character and reputation of the earlier mark must be taken into account; *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc.*,

(h) mere association, in the sense that the later mark brings the earlier mark to mind, is not sufficient for the purposes of Section 5(2); *Sabel BV v Puma AG*,

(i) further, 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; *Marca Mode CV v Adidas AG and Adidas Benelux BV*,



(j) but if the association between the marks causes the public to wrongly believe that the respective goods come from the same or economically linked undertakings, there is a likelihood of confusion within the meaning of the section; *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc.*,

(k) 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; 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; *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*

(l) it is only when all other components of a complex mark are negligible that it is permissible to make the comparison on the basis of the dominant element; *Shaker di L. Laudato & C. Sas v OHIM*

Comparison of marks

14) The respective marks are as below:

NL's marks	NC' s mark
NORMA ('769, '026, '841,)	
 ('611)	
norma-online ('535)	
norma-direct ('149)	

15) Visually, three of NL's marks comprise the single word 'NORMA' in ordinary typeface. A further mark has that word in white type against a rectangular background comprising the colours red with a yellow border above and below the word. The final two marks have additional words "online" and "direct" respectively, which is linked by a hyphen to the main word 'norma'. NC's mark comprises the word 'Normas' (without an apostrophe) in stylised, but traditionally joined-up, script, in dark blue with a 'shadow' effect in lighter blue . The beginning letter 'N' is heavily stylised with exaggerated strokes. In addition, a large circle in dark blue surrounds part of the stylised 'N' and the 'o' of the word Normas. It is not beyond the realm of possibility that, given the stylised nature of NC's mark, certain of the letters may not be immediately apparent, rendering the whole subject to a different reading, eg NOUMAS. Additionally, I should take into account any potential effect of the background circle which may conceivably serve to alter the overall visual impact by, eg isolating the 'N' and the 'O' in NC's mark. My view on this specific point is that the background circle has no effect on the overall mark. Although the mark is stylised as NC submit, I believe it would nonetheless be recognisable to most people as the word Normas as, with the exception of the letter 'N', the remaining letters are formed, as I have said, in a normal 'joined up' fashion. Whilst it is true that NL's marks comprise, albeit slightly different versions of NORMA (either because of colour background or additional matter), and NC's mark is 'Normas' (with an 's') the presence of the 's' does not significantly alter the overall visual impact. I

conclude that, visually, the marks are at the higher end of similarity as regards '769, '026 and '841. As regards the other marks, the degree of visual similarity is less, owing to the use of different colours or additional words, but my conclusion would be that the remaining marks are only marginally less similar.

16) Aurally, the only difference between the marks will be the 's' in NC's mark and the presence of the words 'online' and 'direct' in '535 and '149. NL's marks will be pronounced NOR-MA, except for '535 and '149 which contain the additional words, 'ON-LINE' and 'DIR-ECT' respectively. There is a question whether the presence of the 's' in NC's mark and absence of any apostrophe or other indication that the 's' renders the mark as other than the possessive form of NORMA. In other words, will NC's mark be pronounced NOR-MAS ? Much will depend on whether the speaker will regard the NORMA element as indicative of a female forename which is discussed below. But in any event, the aural difference between 'NOR-MA's' and 'NOR-MAS' is hardly perceptible and does not affect my conclusion on aural similarity which is that as regards marks '769, '026, '841 and '611 the marks are aurally highly similar. As regards marks '535 and '149 the marks are similar.

17) Conceptually, the question I must address is whether both parties' marks will inevitably be seen as the female forename or its possessive form. That is, notwithstanding that I have already noted that in NC's mark there is no apostrophe before the 's' or any other indication that it may be a possessive version, and as I have already noted, it is not beyond the realm of possibility that, given the stylised nature of NC's mark, certain of the letters may not be immediately apparent. Furthermore, as under my visual comparison above, I should take into account any potential effect of the background circle which may conceivably serve to alter the overall impact or concept by, eg isolating the 'N' and the 'O' in NC's mark. I have already however concluded on this specific question that the background circle does not have that effect.

18) I think it reasonable to conclude in relation to NL's marks that they will be seen as the female forename. Although the name 'Norma' may have had its fluctuations in terms of popularity over the years there have been, and are, some very famous Norma's, eg Norma Jeane (the real name of Marilyn Monroe) or Norma Major (wife of John Major), to remind everyone that it is a female forename. As regards NC's mark, and not without some hesitation, I have come to the view that their mark is likely to be seen by the relevant consumer as the possessive form of that female name NORMA, and thus sharing that same 'concept'. I note that it is not argued (unsurprisingly) by NC that their mark is either illegible, or would otherwise be construed in any other way than the possessive form of NORMA. What is argued, as far as I can understand it, is that by virtue of the stylisation and visual differences the overall impression is different (counterstatement para 18), and that conceptual difference is simply asserted. I do not believe that the stylisation in NC's mark does bring about any conceptual difference in this case.

19) The words 'online' and 'direct' are of course entirely descriptive in relation to the goods and services for which '535 and '149 are registered, and accordingly will not vary

the concept which underlies those registrations. In conclusion, I regard all marks as being virtually conceptually identical, that concept being 'Norma', which is a well known female forename in the UK.

Comparison of services

20) In assessing the similarity of services, it is necessary to apply the approach advocated by case law and to take account of all the relevant factors relating to the services in the respective specifications. In *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer* the ECJ stated at paragraph 23 of the Judgment:

'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 end users and their method of use and whether they are in competition with each other or are complementary.'

21) Other factors may also be taken into account such as, for example, the distribution channels of the goods concerned (see, for example, paragraph 53 of the judgment of the Court of First Instance (CFI) in Case T-164/03 *Ampafrance v OHIM – Johnson & Johnson (monBeBé)*).

22) Three further cases on the way that specifications ought to be interpreted should be borne in mind. In *Thomson Holidays Ltd v Norwegian Cruise Lines Ltd ("Thomson")* [2003] RPC 32, at para 31, Aldous LJ, says

"In my view that task should be carried out so as to limit the specification so that it reflects the circumstances of the particular trade and the way that the public would perceive the use."

Although this was in the context of arriving at a fair specification consequent to an attack of revocation on the grounds of non-use, the principle that it is the public and circumstances of the relevant trade that should underpin consideration as to the terms used in a specification nonetheless holds good. Secondly, there is the case of *Beautimatic International Ltd v Mitchell International Pharmaceuticals Ltd ("Beautimatic")* [2000] FSR 267, in which the principle of giving words their ordinary (rather than an unnaturally narrow) meaning was enshrined. Finally, there is the case of *Avnet Incorporated v Isoact Ltd ("Avnet")* [1998] FSR 16 where Jacob J (as he then was) says:

"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."

In summary, the *Beautimatic* and *Avnet* cases urge an approach that is neither unnaturally narrow nor overly wide, whilst the *Thomson* case stresses that the exercise is not one of lexical analysis in a vacuum but by reference to how the average consumer may perceive matters in the relevant trade.

23) The claims made in NL's original statement of case are as expressed in the following table:

Earlier mark	Class in NC's application	Identical or similar to
'769	35 39 and 43	35 and 36 All goods classes as they may be the subject of a franchise or the food and drink classes may be delivered or served in a café or the like
'026	35	35, 41 and 42
'841	35 39 43	35 and 36 39 Food and drink classes
'611	35 39 and 43	35 and 36 All goods classes as they may be the subject of a franchise or the food and drink classes may be delivered or served in a café or the like
'535	35 39 and 43	35 and 36 All goods classes as they may be the subject of a franchise or the food and drink classes may be delivered or served in a café or the like. Also, identical to delivery services in class 35
'149	35 39 and 43	35 and 36 All goods classes as they may be the subject of a franchise or the food and

		drink classes may be delivered or served in a café or the like
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24) These claims recognise of course that NL's specifications are not co-extensive and their claims of similarity vary with each of their specifications. It also has to be said that NL's claims are pitched at the somewhat general level of class, rather than specific goods or service comparison. The broad claims are nonetheless given some specificity in later filed submissions by NL's attorneys. The following table reflects those later submissions, along with a certain selection on my part, in order to render the comparison both suitably specific and reflective of NL's best possible case.

NL's 'best case' specifications	NC's specification
<p>Class 35</p> <p>Business, organisation, personnel and professional business consultancy; ('026,'841, '611, '535, '149).</p> <p>Providing of information and know-how in the commercial and professional business sector, in particular in the retail food sector; accounting, payroll preparation, office functions; arranging and concluding commercial transactions for others, arranging contracts for the buying and selling of goods; ('026,). The specifications for '841,'611, '535 and '149 are in essence the same but differ slightly in wording.</p> <p>Class 36</p> <p>Financial affairs, in particular financial and credit consultancy; ('841 and '769)</p> <p>Class 41</p> <p>Providing of training and further training in the commercial and professional business sector, including management courses, sales training, product training; ('026, '841)</p>	<p>Class 35</p> <p>Administration of the business affairs of franchises; business assistance relating to the establishment of franchises; provision of assistance [business] in the establishment of franchises; provision of assistance [business] in the operation of franchises.</p>

Class 39 Transport and logistics, including brokerage and rental of transport, lorry transport; packaging, storage and delivery of goods; ('841)	Class 39 Food delivery services; delivery of food and drink prepared for consumption.
Classes 29-33, being food and drink classes; ('769, '841, '611, '535, '149)	Class 43 Café services; cafes, cafeteria services; cafeterias; mobile catering services; catering services; business catering services

25) Before starting the analysis it is worth mentioning one final case of the European Court of First Instance ("CFI") in *Gérard Meric v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) ("Meric")* Case T-133/05, where, at para 29, it is stated:

"In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by the trade mark application (Case T-388/00 *Institut für Lernsysteme v OHIM – Educational Services (ELS)* [2002] ECR II-4301, paragraph 53) or when the goods designated by the trade mark application are included in a more general category designated by the earlier mark (Case T-104/01 *Oberhauser v OHIM – Petit Liberto (Fifties)* [2002] ECR II-4359, paragraphs 32 and 33; Case T-110/01 *Vedial v OHIM – France Distribution (HUBERT)* [2002] ECR II-5275, paragraphs 43 and 44; and Case T-10/03 *Koubi v OHIM – Flabesa (CONFORFLEX)* [2004] ECR II-719, paragraphs 41 and 42)."

Class 35

26) It is clear that NC' s class 35 specification is concerned with assistance provided to, and the administration of, franchises. A franchise is a well known business model and has been defined as:

franchise 1. The system by which independent firms are authorized to use a common business system. This may include the use of a brand name, designs, patents, and operating systems, and provision of equipment, training, capital, or credit by the franchiser. This system combines the advantages of incentive for

the operating firms and economies of scale in research, development, and advertising for the franchiser. The holders of franchises are subject to supervision of their operations in order to maintain the reputation of the franchised product.¹

27) NL's specifications include the term "Business, organisation, personnel and professional business consultancy" in class 35, as well as similarly broad terms in classes 36 and 41, respectively relating to financial affairs and to training. Can it be said that the "administration" of NC's specification is simply the same as, or a sub category of, "consultancy" in NL's specifications? After all, 'consultancy' suggests an arms-length business to business service, whereas the 'administration' in NC's specification, in the context of franchises, reflects the fact that NC is acting as franchiser or supervisor of the franchise. As the case law requires, I should not give an overly broad interpretation to the description of services in a specification. Nevertheless, as pointed out in submissions by NL's attorneys, there are other terms within NL's specifications in class 35 (as well as classes 41 and 42) which perhaps more clearly encompass the role of franchiser, eg "providing of information and know-how in the commercial and professional business sector, in particular in the retail food sector; accounting, payroll preparation, office functions; arranging and concluding commercial transactions for others, arranging contracts for the buying and selling of goods". The absence of the word 'administration' or 'franchise' in NL's specifications does not prevent a finding of identity if I am of the view that NL's specification is in fact synonymous with, or encompasses, the core services for which NC seeks protection. My view is that the terms used by NL in its specification do encompass the core services for which NC seeks protection as they fit with the definition of a franchise given above. That is to say, the franchiser provides the franchisee with the administrative support and supervision required to operate the franchise and such terms are in essence synonymous with 'consultancy' and the 'provision of information'. On that basis I find that the services in NC's specification in class 35 are identical to those of NL. For the avoidance of any doubt, even if I were to be found wrong on this point and the services in class 35 are not identical I would have inevitably found them to be highly similar and as such, it would not materially affect my overall conclusion on likelihood of confusion.

Class 39

28) Applying the *Meric* case, it is self evident that the services in class 39 are identical. That is to say that the food delivery services of NC are a sub-category and encompassed by the wider packaging, storage and delivery of goods services of NL's specification in class 39 for '841. It does not matter, in response to submissions by NC that 'food' and 'drink' are not mentioned within the wider category of NL's services. Submissions on behalf of NL ask me to have regard to the fact that the evidence shows

1

"franchise" *A Dictionary of Economics*. John Black, Nigar Hashimzade, and Gareth Myles. Oxford University Press, 2009. *Oxford Reference Online*. Oxford University Press. UK Intellectual Property Office. 28 July 2009 <<http://www.oxfordreference.com/views/ENTRY.html?subview=Main&entry=t19.e1270>>

that NL trade as a supermarket and is likely therefore to include delivery services as part and parcel of its operation. In addition, the marks norma-direct and norma-online, point to the nature of the operation, being inclusive of delivery services. In the event however I have not needed to rely on these submissions to make my finding.

Class 43

29) NL say that the goods in the food class of their specifications are similar to the services of class 43 of NC's specification, being café and catering (including mobile and business) services. Specifically, they submit that given the nature of their operation as a supermarket there would be an expectation on the part of consumers that cafeteria services would be provided on their premises. I am not persuaded by this argument as not all supermarkets offer cafeteria services. Supermarkets in the 'hard discount' sector (of which the opponents are one, as shown in the evidence) may not, in my experience, provide such services.

30) I am left then to consider the matter on a notional basis, in accordance with the specifications and case law mentioned above. Plainly there is a complementary relationship between the two in the sense that the one cannot exist without the other. Cafes and catering services serve food; that is their *raison d'être*. Moreover, café and catering services may not just provide food on their premises but also make it available to take-away or for home delivery in the same way any other type of food retailer would do. The mobile and business catering services actually anticipate that scenario. It is true that cafés and catering services would serve prepared food but this type of food is clearly covered by NL's specifications. I conclude that the class 43 services of NC share a reasonable level of similarity to the food classes covered by NL's specifications.

The average consumer

31) As matters must be judged through the eyes of the average consumer (*Sabel BV v. Puma AG*, paragraph 23) it is important that I assess who the average consumer is for the services at issue, and whether there is anything about the nature of transactions under the respective marks that may lead me to conclude that the average consumer is other than someone "deemed to be reasonably well informed and reasonably circumspect and observant" (see authority (b) in para 21 above).

32) As I have found identity in respect of the services in classes 35 and 39 it would follow that the average consumer for those services will be the same for both parties' respective services. Concerning class 35, the average consumer will be another business rather than the general public. It may be true that certain franchise operations are open to the general public to take part, but in doing so they inevitably form their own business, linked to the franchiser. Both franchiser and franchisee are in effect businesses. Concerning class 39, the average consumer will again be businesses seeking to transport their good. Alternatively the average consumer could be the public, especially in the case of food and drink delivery, eg takeaway or café operations that deliver food. It is true that NC's specification is more narrowly defined in terms of the

goods being transported (food and drink), but this simply means that the respective average consumers will overlap rather than constitute distinctly separate groups.

33) Concerning class 43, the average consumer for NL's food classes is likely to be the general public. Likewise it is the general public who eat in café's, restaurants and mobile catering services. It is true that NC also has 'business catering services' within their class 43 services, and as regards those specific services I need to recognise that the average consumer will be a different group to the general public. It is nonetheless plain from the scope of its class 43 specification that NC offers its services to both businesses and the public rather than businesses alone. In that respect it is inevitable that the average consumer for the 'public' side of the operation will overlap with the consumer for NC's foods.

Use and distinctive character of the earlier trade mark

34) Prior to conducting an overall assessment of likelihood of confusion I must make an assessment of the distinctive character of the earlier mark(s). All the earlier marks have the word 'NORMA' as their core, distinctive element. As I have said this will be seen as a well known female forename. As such, it is not at the highest level of distinctiveness which is reserved for invented words. As a personal name, it may be that the UK consumer will assume there is a 'NORMA' behind the goods or services being sold, perhaps the founder or other important person behind the undertaking. But beyond that, there will be no clear 'link' or even allusion as between the word NORMA and the goods and services on offer. On that basis I cannot agree with the submission by NC that the earlier marks are of 'low distinctiveness'. The word NORMA is more than averagely distinctive for the goods and services covered by NL's specifications. I have only considered inherent distinctiveness here as there is no evidence of NL's use of their mark in the UK which may have given rise to an enhanced distinctiveness claim.

Likelihood of confusion

35) I am required to factor in all my findings above in a global assessment taking into account imperfect recollection on the part of the consumer. Given in particular the above averagely distinctive character of NL earlier marks, together with the degree of similarity of the goods and services and level of similarity between the marks, I conclude there is a likelihood of confusion and the opposition under section 5(2)(b) succeeds in respect of all services of NC's application.

Costs

36) NL are entirely successful in their opposition and are entitled to a contribution towards their costs. Accordingly I hereby order Normas Catering Ltd to pay Norma Lebensmittelfilialbetrieb GmbH & Co KG the sum of £1,500. The award is made on the following basis:

Filing opposition (including official fees) - £500
Considering counterstatement – £200

Filing evidence - £500
Filing submissions - £ 300
Total - £1,500

37) This sum is to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful

Dated this 7th day of September 2009

**Edward Smith
For the Registrar,
the Comptroller-General**

ANNEX

CTM 213769

Mark:

NORMA

Date of filing: 1st April 1996

Date of registration: 19th June 2002

Specification:

Class 03:

Bleaching preparations and other substances for laundry use, cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions, preparations for cleaning, care and conditioning of hair; dentifrices.

Class 05:

Food for babies; plasters, materials for dressings; deodorising room sprays; hygienic articles for women, namely sanitary towels, panty liners, tampons, sanitary pants.

Class 08:

Hand tools and implements (hand operated) (included in class 8); cutlery, including cutlery of precious metal; side arms, razors and hair-cutting and shaving devices (hand implements) and nail cutting equipment.

Class 16:

Indoor aquaria and terraria.

Class 18:

Leather and imitations of leather, and goods made of these materials, included in class 18; animal skins; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.

Class 21:

Utensils (so far as included in class 21) and containers for household or kitchen use (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); shaving brushes and brushes for dusting; brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware (included in class 21); trivets (table utensils).

Class 25:

Articles of clothing; footwear, including shoes; headgear.

Class 28:

Games and playthings; gymnastic and sporting articles (included in class 28); decorations for Christmas trees.

Class 29:

Meat, sausage, fish (including processed shellfish, crustaceans and molluscs), poultry and game; meat, sausage, poultry, game and fish products; meat extracts; fruit, vegetables, herbs and potatoes in preserved, dried, cooked, frozen or processed form, including peanut kernels, nuts, almonds and cashew nut kernels, including being snacks; potato products, namely potato flour, French fries, potato croquettes, potato fritters, potato dumplings, fried potatoes; meat, sausage, fish, fruit and vegetable jellies; marmalades and jams; eggs; milk, in particular buttermilk, sour milk, curds, milk preserves and condensed milk; butter, clarified butter, cheese, in particular quark, cheese preserves, kefir, cream, yoghurt (including yoghurt with added fruit), powdered milk for food; desserts, mainly of milk, yoghurt, quark, gelatine, starch and/or cream; milk free from alcohol and non-alcoholic mixed milk drinks, including with added cocoa, chocolate or coffee; edible oils and fats, including margarine and lard; spreads of edible fats and edible fat mixtures; cooking oils, cooking fats, separating oils and separating fats for cooking; meat, sausage, fish, fruit and vegetable preserves; delicatessen salads as well as frozen food, mixed, semi-prepared (including with fillings) and prepared meals, including preserved meals, mainly consisting of meat, sausage, fish, poultry, game, prepared fruits and vegetables, pulses, cheese, eggs, potatoes, pasta, rice, maize, farinaceous foods and/or potato products (including potato flour), including the aforesaid goods with added spices and sauces (including salad dressings) and/or combined with bread or bread rolls (including hamburgers or sandwiches); pies, namely meat pies, pies mainly filled with meat, fish, fruit or vegetables and empty pie cases; mixed pickles; bouillon extracts, meat stock cubes and other meat stock preparations, in particular meat stock cubes, vegetable stock cubes; instant soups, soup concentrates and soup seasonings in liquid, concentrated and dried form, stock paste preparations, vegetable extracts being additives for foodstuffs and meat.

Class 30:

Coffee, tea, cocoa, sugar (including vanillin and vanilla sugar and glucose for food), rice, tapioca, sago, artificial coffee, coffee and tea extracts; cocoa powder; non-alcoholic coffee, tea, cocoa and chocolate beverages including instant drinks; blancmanges, blancmange powders and blancmange desserts; flour and preparations made from cereals (except animal feed); popcorn, corn flakes (for food); cereals for human consumption, in particular oat flakes or other cereal flakes, in particular being breakfast foodstuffs, including the aforesaid goods mixed with dried fruits (including nuts), sugar and/or honey; potato flour, semolina; pasta, prepared pasta meals and pasta preserves; bread, cookies, cakes and other pastries; sweet and/or savoury snacks mainly consisting of cereals, cocoa, cake, chocolate, sugar, honey, dried fruit, nuts, potato products

(including potato flour), peanut kernels, almonds, cashew nut kernels and/or pastries; long life cakes and pastries (including with sweet or spicy fillings), in particular crispbread, gingerbread and biscuits; pizzas, including preserved pizzas; chocolate; confectionery, in particular chocolate products and pralines, including confectionery with a filling of fruit, coffee, non-alcoholic drinks, wine and/or spirits, and of milk or milk products, in particular yoghurt; ices and powder for ices; confectionery, in particular sweetmeats (candy) and chewing gum, not for medical purposes; marzipan; honey, invert sugar cream, fruit syrup, treacle; spreadable cocoa substances, spreads, mainly consisting of sugar, cocoa, nougat, milk and/or fats; yeast, baking powder, essences for baking (except essential oils); salt for food, mustard, pepper, vinegar, sauces (including salad dressings), powdered sauces and sauce extracts (including the aforesaid goods for salad dressings), salad dressings; mayonnaise; ketchup, spices and condiments; ice.

Class 31:

Agricultural, horticultural and forestry products as well as grains (as far as contained in class 31); live and processed animals; fresh fruits and vegetables; seeds, including flower bulbs; natural plants and flowers; dog food, cat food and bird food; malt; litter for animals.

Class 32:

Beer, ale and porter; mineral and aerated waters and other non-alcoholic drinks; drinks, juices and fruit juices; syrups and other preparations for making (non-alcoholic) beverages.

Class 33:

Alcoholic beverages (except beers), wines, spirits and liqueurs.

Class 34:

Unprocessed tobacco, cigarettes and other tobacco products; smokers' articles, namely tobacco tins, cigar and cigarette holders, cigar and cigarette cases, ashtrays, none of the aforesaid goods of precious metals or their alloys or coated therewith, pipe stands, pipe cleaners, cigar cutters, pipes, lighters, pocket equipment for rolling cigarettes, cigarette papers, cigarette filters; matches; tobacco substitutes (not for medical purposes).

Class 35:

Marketing, sales promotion, sales and purchasing consultancy, market research and market analysis; business, organisation, personnel and professional business consultancy; advertising, advertising documentation; consultancy on interior decoration of business premises and shops for advertising purposes, shop window dressing; providing of information and know-how in the commercial and professional business sector, in particular in the retail food sector; accountancy, negotiating and concluding commercial transactions, arranging

contracts for the buying and selling of goods; distribution of goods for advertising purposes.

Class 36:

Financial affairs, in particular financial and credit consultancy; debt collection; real estate management and rental, house, office and shop management and rental; real estate and mortgage brokerage; hire-purchase; arranging of insurance; financial management.

CTM 3268026

Mark:

NORMA

Date of filing: 15th July 2003

Date of registration: 8th February 2005

Specification:

Class 35:

Marketing, sales promotion, sales and purchasing consultancy, market research and market analysis; public relation services; staff recruitment services; business, organisation, personnel and professional business consultancy; advertising, advertising documentation; consultancy in the design of business premises and shops; shop-window dressing; providing of information and know-how in the commercial and professional business sector, in particular in the retail food sector; accounting, payroll preparation, office functions; arranging and concluding commercial transactions for others, arranging contracts for the buying and selling of goods; distribution of samples; retailing services; retail store services; collating of data in computer databases; order placement and delivery services and invoice management, including within the framework of e-commerce; organisation of trade fairs and exhibitions for commercial or advertising purposes; all the aforesaid services excluding services in the field of building construction.

Class 41:

Providing of training and further training in the commercial and professional business sector, including management courses, sales training, product training; organisation of conferences as well as of seminars, workshops, lectures and other similar educational meetings; sporting activities; rental of films, recorded videos, cinematographic, radio and television apparatus, and sports equipment; arranging and conducting of conferences, congresses, symposiums, meetings and seminars; consumer advice; all the aforesaid services excluding services in the field of building construction.

Class 42:

Development, creation, further development and maintenance (improving and updating) of computer programs, computer program systems, program libraries and databases and the rental or leasing thereof, subject to special contractual conditions (leasing by licence); preparation of electronic DP systems analysis and testing of electronic DP systems; technical consultancy, providing of expertise, engineering and computer programming services, rental of electronic data processing installations; application support services and planning of computer solutions; database design; database management; technical planning, coordination and support for customer service systems and customer loyalty schemes; technical business consultancy for customer service systems and customer loyalty schemes; computer services for managing online communications, in particular in the field of customer services, sales and marketing; providing online data; scientific and technological services, in particular examining food products and products for everyday use, quality testing; consultation in environment protection; all the aforesaid services excluding services in the field of building construction.

CTM 4306841

Mark:

NORMA

Date of filing: 24th May 2005

Date of registration:

Specification:

Class 03:

Bleaching preparations and other substances for laundry use, fabric conditioners and soaking preparations, brighteners and dye additives for laundry; laundry starch; laundry starch; stain removing preparations (included in class 3), stain removing salts, aftertreatment preparations for laundry, namely fabric conditioners and fabric softeners; cleaning, polishing, scouring, degreasing and abrasive preparations; rinsing and cleaning preparations for household use; cleaning preparations for wood, metals, glass, wallpaper, plastic, porcelain, earthenware, enamel, textiles, windows; soaps; floor care preparations and floor cleaning preparations, cleaning pastes for carpets and textiles; preparations for cleaning buildings; fragrant air freshening sprays; perfumery, essential oils, cosmetics, sun creams and lotions, toilet preparations (included in class 3), hair lotions, haircare preparations; deodorants for personal use; dentifrices; plasters for cosmetic purposes; products of paper and/or cellulose (included in class 3), in particular cosmetic wipes, cotton wool, cotton sticks, cotton wool pads.

Class 05:

Dietetic substances adapted for medical use and/or for children and invalids (including dietetic foodstuffs); dietetic foodstuffs for medical purposes, in particular dietetic bakery products, dietetic confectionery, dietetic preserved fruits and fruit jams, dietetic jams, chocolate, pralines and sweets and confectionery for diabetics; food supplements for medical purposes, namely preparations to supplement daily requirements of essential nutrients, in particular vitamins, vitamin preparations, minerals, trace elements, fatty acids and brewer's yeast, roughage, bulk-forming agents, also in the form of tablets, emulsions, capsules, dragees, powders, granules, bars and fibrous cores; medical, pharmaceutical and sanitary preparations; food for babies; plasters, materials for dressings; disinfectants; preparations for destroying vermin; moth paper; fungicides, herbicides; deodorising room sprays; products of paper and/or cellulose (included in class 5), in particular hygienic bandages, sanitary napkins, tampons, panty liners, incontinence napkins, sanitary pants.

Class 08:

Hand tools and implements (hand-operated) (included in class 8); cutlery, including cutlery of precious metal; side arms, razors and hair-cutting and shaving devices (hand

implements) and nail clippers.

Class 09:

Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, including batteries and accumulators, power surge protection equipment; apparatus for recording, transmission or reproduction of sound or images, electric, electronic and optical apparatus for the recording, processing, sending, transmission, relaying, storage and output of messages, images, text, speech and data, in particular computers, notebooks and computer systems mainly consisting thereof, computer peripheral devices, including monitors, keyboards, computer mice, printers, storage media (including external storage media), including USB sticks, and in particular television sets, radios, video recorders, CD players, DVD players, MP3 players, stereo systems and equipment, telephones, mobile telephones, fax machines, modems, video games adapted for use with television receivers only, electronic diaries; magnetic data carriers, optical data media, all with and without recordings, recording discs, exposed films; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines; semi-conductor, electric and electronic components, electric and electronic switches and printed circuits and circuit boards (included in class 9), micro-processors, integrated circuits, smartcards; computer software, computer programs (including operating systems) recorded on data carriers, and program systems, databases and program libraries mainly consisting thereof, games programs for computers; fire-extinguishing apparatus; alarm apparatus; spectacles, in particular reading glasses and sunglasses, including cases; electric irons; mouse pads; parts of all the aforementioned apparatus and instruments; all the aforesaid goods except goods related to the field of car industry.

Class 11:

Apparatus for heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

Class 16:

Paper, cardboard and goods made from these materials, included in class 16; products of paper and/or cellulose (included in class 16), in particular toilet paper, toilet tissues, hand towels, tea towels, handkerchiefs, cosmetic tissues, napkins, filter paper, babies' nappies; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastics materials for packaging included in class 16; writing and drawing implements; indoor aquaria and terraria; printers' type and printing blocks.

Class 18:

Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; bags, rucksacks, trunks and travelling bags; umbrellas, parasols (including parasol stands) and walking sticks; whips, harness and

saddlery.

Class 21:

Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); shaving brushes and brushes for dusting; brooms, hand tools for sweeping; brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes; trivets (table utensils); gloves for gardening and household purposes; clothes-pins, drying racks for washing, clothes drying racks.

Class 22:

Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (included in this class); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials; hammocks; packaging bags made of textile.

Class 23:

Yarns and threads, for textile use.

Class 25:

Articles of clothing; footwear; headgear.

Class 28:

Games and playthings, electronic games and video games (except those adapted for use with television receivers); gymnastic and sporting articles not included in other classes; Christmas tree decorations and stands.

Class 29:

Meat, sausage, fish (including processed shellfish, crustaceans and molluscs), poultry and game; meat, sausage, poultry, game and fish products; meat extracts; fruit, vegetables, herbs and potatoes in preserved, dried, cooked, frozen or processed form, including peanut kernels, nuts, almonds and cashew nut kernels, including being snacks; potato products, namely potatoes in roast, cooked, fried or prepared form, French fries, potato croquettes, potato fritters, potato dumplings, fried potatoes; sweet and/or savoury snacks, mainly consisting of dried fruits, nuts, potato products, peanut kernels, almonds and cashew nut kernels; meat, sausage, fish, fruit and vegetable jellies; marmalades and jams; eggs; milk, in particular buttermilk, sour milk, curds, milk preserves and condensed milk; milk products, in particular butter, clarified butter, cheese, quark, cheese preserves, kefir, cream, yoghurt (including yoghurt with added fruit), powdered milk for food; desserts, mainly of milk, yoghurt, quark, gelatine and/or cream; milk free from alcohol and non-alcoholic mixed milk drinks, including with added cocoa, chocolate or coffee; edible oils and fats, including margarine and lard; spreads, mainly consisting of milk and/or fats, edible fats and edible fat mixtures; cooking oils, cooking fats, separating oils and separating fats for cooking; meat, sausage, fish, fruit and vegetable preserves; delicatessen salads and frozen food, mixed, semi-prepared (including fillings) and prepared meals, including preserved meals, all mainly consisting of meat, sausage, fish, poultry, game, prepared fruit and vegetables, pulses, cheese,

eggs, potatoes, corn and/or potato products; mixed pickles; bouillon extracts and other meat stock preparations, in particular meat stock cubes; instant soups, soup concentrates; preparations for making soups, in particular meat and vegetable stock cubes; food supplements, dietetic substances and food supplements for non-medical purposes (included in class 29).

Class 30:

Coffee, tea, cocoa, sugar (including vanillin and vanilla sugar and glucose for food), rice, tapioca, sago, artificial coffee, coffee and tea extracts; cocoa powder; non-alcoholic coffee, tea, cocoa and chocolate-based beverages including instant drinks; puddings, custard powder and blancmanges, desserts mainly consisting of starch; flour and preparations made from cereals (except animal feed); popcorn, corn flakes (for food); cereals for human consumption, in particular oat flakes or other cereal flakes, in particular being breakfast foodstuffs, including the aforesaid goods mixed with dried fruits (including nuts), sugar and/or honey; potato flour, semolina; pasta, prepared pasta meals and pasta preserves; delicatessen salads as well as frozen food, mixed, semi-prepared (including with fillings) and prepared meals, including preserved meals, mainly consisting of pasta, rice, farinaceous foods and/or potato flour, including the aforesaid goods with added spices and sauces (including salad dressings) and/or combined with bread or bread rolls; pies, namely meat pies, pies mainly filled with meat, fish, fruit or vegetables and empty pie cases; bread, cookies, cakes and other pastries; sweet and/or savoury snacks mainly consisting of cereals, cocoa, cakes, chocolate, sugar, honey, potato flour and/or pastries; long life cakes and pastries (including with sweet or spicy fillings), in particular crispbread, gingerbread and biscuits; pizzas, including preserved pizzas; chocolate; confectionery, in particular chocolate products and pralines, including confectionery with a filling of fruit, coffee, non-alcoholic drinks, wine and/or spirits, and of milk or milk products, in particular yoghurt; ices, including in the form of ice cream cakes and powder for edible ices; confectionery, in particular sweetmeats (candy) and chewing gum, not for medical purposes; marzipan; honey, invert sugar cream, fruit syrup, treacle; spreadable cocoa substances, spreads, mainly consisting of sugar, cocoa and/or nougat; yeast, baking powder, essences for baking (except essential oils); salt for food, mustard, pepper, vinegar, sauces (including salad dressings), powdered sauces and sauce extracts (including the aforesaid goods for salad dressings), salad dressings; mayonnaise; ketchup, spices and condiments; condiments, in particular meat and vegetable stock cubes and soup seasonings, stock paste preparations, vegetable extracts being additives for foodstuffs and meat; ice; food supplements, dietetic substances and food supplements for non-medical purposes (included in class 30).

Class 31:

Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, including flower bulbs, natural plants and flowers; foodstuffs for animals; malt; litter for animals.

Class 32:

Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit

juices; syrups and other preparations for making beverages.

Class 33:

Alcoholic beverages and beverages containing alcohol (except beers).

Class 34:

Tobacco, unprocessed tobacco, cigarettes and other tobacco products; smokers' articles; matches, cigarette lighters; tobacco substitutes (not for medical purposes).

Class 35:

Marketing, sales promotion, sales and purchasing consultancy, market research and market analysis; public relations; personnel recruitment; business, organisation, personnel and professional business consultancy; advertising, including direct advertising and mailings, advertising documents, advertising consultancy, design of advertisements, advertising on the Internet; consultancy in the design of business premises and shops; shop-window dressing; providing of information and know-how in the commercial and professional business sector, in particular in the retail food sector; sales planning and sales advice; accounting, payroll preparation, office functions; arranging and concluding commercial transactions, arranging contracts for the buying and selling of goods; distribution of samples; operating supermarkets, retail outlets and discount retail outlets; collating of data in computer databases; providing information on the Internet, namely providing information for consumer advice in the fields of the household and textiles (product information) and information for customer services with regard to right of return, product liability and warranty; order placement and delivery services and invoice management, including within the framework of e-commerce; organisation of trade fairs and exhibitions for commercial or advertising purposes; all the aforesaid services also via the Internet; retailing and online retailing, in particular discount retailing, in the fields of drugstore products, health products, medicines, preparations and apparatus for healthcare, dietetic substances, food supplements, products, apparatus and equipment for household, garden, kitchen, bathroom, camping and do-it-yourself, car components, computer, computer equipment and software, audio and video recording carriers, musical instruments, electric appliances, electronic equipment, hi-fi equipment, home cinema, telecommunication equipment and fittings, scientific equipment, material for photography and optics, lighting apparatus and equipment, products of paper, cellulose and plastic, books, printed matter, office requisites, stationery, material for school and hobby, packaging material, ironmongery, plastic products, furniture and equipment, textiles, clothing, footwear, headgear for wear, babies' and children's products, home textiles and haberdashery, fashion accessories, clocks and watches, jewels and jewellery, glasses, bags, leatherwear and leather imitations, travels and travelling products, umbrellas, games, toys, material as well as equipment for gymnastics, sports and free time, foodstuffs, delicatessen, organic and natural products, beverages, plants, flowers, animal foodstuffs, products for animals, luxury food, tobacco; all the aforesaid services except services related to the building field and to the field of car industry.

Class 36:

Financial affairs, in particular financial and credit consultancy; debt collection; real

estate management and rental, house, office and shop management and rental; real-estate and mortgage negotiation; leasing; arranging of insurance; financial management.

Class 38:

Telecommunications, in particular providing access to a global computer network and to databases, arranging and leasing of access time to databases, television and radio broadcasting, satellite broadcasting, news agency and press agency services, electronic transmission of messages and images, Internet services, namely providing access to Internet services; operation and provision of portals on the Internet.

Class 39:

Transport and logistics, including brokerage and rental of transport, lorry transport; packaging, storage and delivery of goods; rental of parking places and warehouses; planning, arranging, booking and organising of travel, including with the aid of electronic devices, providing and arrangement of transport, sightseeing, escorting of travellers; transportation and travel information, including the aforesaid services using electronic devices; all the aforesaid services except services related to the building field.

Class 41:

Providing of training and further training in the commercial and professional business sector, including management courses, sales training, product training; entertainment; sporting activities; rental of films, recorded videos, cinematographic, radio, television apparatus, sports equipment; arranging and conducting of conferences, congresses, symposiums, meetings and seminars; alle vorgenannten Dienstleistungen ausgenommen Dienstleistungen in Bezug auf das Bauwesen.

Class 42:

Development, creation, further development and maintenance (improving and updating) of computer programs, computer program systems, program libraries and databases and the rental or leasing thereof, subject to special contractual conditions (leasing by licence); preparation of electronic DP systems analysis and testing of electronic DP systems; technical consultancy, providing of expertise, engineering and computer programming services, rental of electronic data processing installations; application support services and planning of computer solutions; database design; technical database management; technical design of customer service systems and customer loyalty schemes; computer services for managing online communications, in particular in the field of customer services, sales and marketing; scientific and technological services, in particular examining food products and products for everyday use, quality testing; consultation in environment protection; all the aforesaid services in particular in the fields of commerce and logistics; all the aforesaid services except services related to the building field and to the field of car industry.

CTM 6338611

Mark:



Date of filing: 5th October 2007

Date of registration: 29th September 2008

Specification:

Class 03:

Bleaching preparations and other substances for laundry use, fabric conditioners and soaking preparations, brighteners and dye additives for laundry; laundry starch; laundry starch; stain removing preparations (included in class 3), stain removing salts, aftertreatment preparations for laundry, namely fabric conditioners and fabric softeners; Cleaning, polishing, scouring, degreasing and abrasive preparations; rinsing and cleaning preparations for household use; cleaning preparations for wood, metals, glass, wallpaper, plastic, porcelain, earthenware, enamel, textiles, windows; soaps; floor care preparations and floor cleaning preparations, cleaning pastes for carpets and textiles; preparations for cleaning buildings; fragrant air freshening sprays; perfumery, essential oils, cosmetics, sun creams and lotions, toilet preparations (included in class 3), hair lotions, haircare preparations; deodorants for personal use; dentifrices; goods of paper and/or cellulose (included in class 3), namely cosmetic wipes, cosmetic wipes with powder, cloths impregnated with cosmetic lotions, cotton wool, cotton sticks, cotton wool pads.

Class 05:

Dietetic substances adapted for medical use and/or for children and invalids (including dietetic foodstuffs); dietetic foodstuffs for medical purposes, in particular dietetic bakery products, dietetic confectionery, dietetic preserved fruits and fruit jams, dietetic jams, chocolate, pralines and sweets and confectionery for diabetics; food supplements for medical purposes, namely preparations for

supplementing the daily requirement of essential nutrients, in particular vitamins, vitamin preparations, minerals, trace elements, fatty acids and beer yeast, roughage, expanding agents, including in the form of tablets, emulsions, capsules, dragées, powders, granules, bars and fibre kernels; food supplements not adapted for medical use, with a base of proteins, fats, fatty acids, with added vitamins, minerals, trace elements, either singly or in combination; food supplements not adapted for medical use, with a base of carbohydrates, roughage, with added vitamins, minerals, trace elements, either singly or in combination; Medical, pharmaceutical and sanitary preparations; food for babies; plasters, materials for dressings; disinfectants; plasters for cosmetic purposes; preparations for destroying vermin; moth paper; fungicides, herbicides; deodorising room sprays; products of paper and/or cellulose (included in class 5), namely hygienic bandages, sanitary napkins, tampons, panty liners, incontinence napkins, sanitary pants.

Class 29:

Meat, sausage, fish (including processed shellfish, crustaceans and molluscs), poultry and game; meat, sausage, poultry, game and fish products; meat extracts; fruit, vegetables, potatoes in preserved, dried, cooked, frozen or processed form, including peanut kernels, nuts, almonds and cashew nut kernels, including being snacks; Potato products, namely fried, boiled, deep-fried or precooked potatoes, French fries, potato croquettes, potato fritters, potato dumplings, fried potatoes; sweet and/or savoury snacks, mainly consisting of dried fruits, nuts, potato products, peanut kernels, almonds and cashew nut kernels; meat, sausage, fish, fruit and vegetable jellies; marmalades and jams; eggs; milk, in particular buttermilk, sour milk, curds, milk preserves and condensed milk; milk products, butter, clarified butter, cheese, in particular quark, cheese preserves, kefir, cream, yoghurt (including yoghurt with added fruit), powdered milk for food; desserts, mainly of milk, yoghurt, quark, gelatine and/or cream; milk free from alcohol and non-alcoholic mixed milk drinks, including with added cocoa, chocolate or coffee; edible oils and fats, including margarine and lard; spreads, mainly consisting of milk and/or fats, edible fats and edible fat mixtures; cooking oils, cooking fats, separating oils and separating fats for cooking; meat, sausage, fish, fruit and vegetable preserves; delicatessen salads and frozen food, mixed, semi-prepared (including fillings) and prepared meals, including preserved meals, all mainly consisting of meat, sausage, fish, poultry, game, prepared fruits and vegetables, pulses, cheese, eggs, potatoes, corn and/or potato products; mixed pickles; bouillon extracts and other meat stock preparations, in particular meat stock granules; instant soups, soup concentrates; preparations for making soups, in particular meat and vegetable stock cubes.

Class 30:

Coffee, tea, cocoa, sugar (including vanillin and vanilla sugar and glucose for food), rice, tapioca, sago, artificial coffee, coffee and tea extracts; cocoa powder; non-alcoholic coffee, tea, cocoa and chocolate-based beverages including instant drinks; puddings, custard powder and blancmanges, desserts mainly consisting of starch; flour and preparations made from cereals (except animal

feed); popcorn, corn flakes (for food); cereals for human consumption, in particular oat flakes or other cereal flakes, in particular being breakfast foodstuffs, including the aforesaid goods mixed with dried fruits (including nuts), sugar and/or honey; potato flour, semolina; pasta, prepared pasta meals and pasta preserves; delicatessen salads as well as frozen food, mixed, semi-prepared (including with fillings) and prepared meals, including preserved meals, mainly consisting of pasta, rice, farinacious foods and/or potato flour, including the aforesaid goods with added spices and sauces (including salad dressings) and/or combined with bread or bread rolls; pies, namely meat pies, pies mainly filled with meat, fish, fruit or vegetables and empty pie cases; bread, cookies, cakes and other pastries; sweet and/or savoury snacks mainly consisting of cereals, cocoa, cakes, chocolate, sugar, honey, potato flour and/or pastries; long life cakes and pastries (including with sweet or spicy fillings), in particular crispbread, gingerbread and biscuits; pizzas, including preserved pizzas; chocolate; confectionery, in particular chocolate products and pralines, including confectionery with a filling of fruit, coffee, non-alcoholic drinks, wine and/or spirits, and of milk or milk products, in particular yoghurt; ices, including in the form of ice cream cakes and powder for edible ices; confectionery, in particular sweetmeats (candy) and chewing gum, not for medical purposes; marzipan; honey, invert sugar cream, fruit syrup, treacle; spreadable cocoa mixtures, spreads, mainly consisting of sugar, cocoa and/or nougat; yeast, baking powder, essences for baking (except essential oils); salt for food, mustard, pepper, vinegar, sauces (including salad dressings), powdered sauces and sauce extracts (including the aforesaid goods for salad dressings), salad dressings; mayonnaise; ketchup, spices and condiments; herbs in preserved, dried, cooked, frozen and prepared form; condiments, in particular meat and vegetable stock cubes and soup seasonings, stock paste preparations, vegetable extracts being additives for foodstuffs and meat; ice.

Class 31:

Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, including flower bulbs, natural plants and flowers; Animal food; malt; litter for animals

Class 32:

Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.

Class 33:

Alcoholic and non-alcoholic beverages (except beers).

Class 35:

Marketing, sales promotion, sales and purchasing consultancy, market research and market analysis; public relations; personnel recruitment; business, organisation, personnel and professional business consultancy; advertising, including direct advertising and mailings, advertising documents, advertising consultancy, design of advertisements, advertising on the Internet; consultancy in

the design of business premises and shops; shop-window dressing; providing of information and know-how in the commercial and professional business sector, in particular in the retail food sector; sales planning and sales advice; accounting, payroll preparation, office functions; arranging and concluding of commercial transactions, arranging of contracts for the buying and selling of goods and the providing of services, for others, via a teleshopping channel, included in class 35; order placement via hotlines and call centres; distribution of samples; operating supermarkets, retail outlets and discount retail outlets, retail services and online retail services, in particular discount retail services, in the fields of pharmacy articles, healthcare articles, medicines, sanitary preparations, dietetic substances, food supplements, articles, equipment and fittings for household, garden, kitchen, bathroom and DIY purposes, auto fittings, computers, computer accessories and software, audio and image carriers, electric apparatus, electronic apparatus, high fidelity sound equipment, home cinema systems, telecommunications equipment and fittings, scientific apparatus, musical instruments, photographic and optical articles, lighting units and fittings, goods of paper, plastic and cellulose, books, office requisites, stationery, school and hobby requisites, packaging materials, metal goods, plastic goods, furniture and furnishings, textiles, clothing, footwear, headgear, articles for babies and children, home textile products and haberdashery, fashion accessories, clocks and watches, jewellery, spectacles, bags, goods of leather and imitations of leather, travel items, umbrellas, games, toys, gymnastic, sporting and leisure articles and equipment, foodstuffs, delicatessen articles, bio-products and natural products, beverages, plants, flowers, foodstuffs for animals, articles for animals, luxury items, tobacco products; collating of data in computer databases; providing information on the Internet, namely providing information for consumer advice in the fields of the household and textiles (product information) and information for customer services with regard to right of return, product liability and warranty; order placement and delivery services and invoice management, including within the framework of e-commerce; organisation of trade fairs and exhibitions for commercial or advertising purposes; publication of catalogues for advertising purposes; including all the aforesaid services via the Internet, in particular relating to travel and recreation.

CTM 5052535

Mark:

norma-online

Date of filing: 3rd May 2006

Date of registration: 6th February 2008

Specification:

Class 29:

Meat, sausage, fish (including processed shellfish, crustaceans and molluscs), poultry and game; meat, sausage, poultry, game and fish products; meat extracts; fruit, vegetables, herbs and potatoes in preserved, dried, cooked, frozen or processed form, including peanut kernels, nuts, almonds and cashew nut kernels, including being snacks; potato products, namely fried, boiled, deep-fried or pre-cooked potatoes, French fries, potato croquettes, potato fritters, potato dumplings, fried potatoes; sweet and/or savoury snacks, mainly consisting of dried fruits, nuts, potato products, peanut kernels, almonds and cashew nut kernels; meat, sausage, fish, fruit and vegetable jellies; marmalades and jams; eggs; milk, in particular buttermilk, sour milk, curds, milk preserves and condensed milk; milk products, butter, clarified butter, cheese, in particular quark, cheese preserves, kefir, cream, yoghurt (including yoghurt with added fruit), powdered milk for food; desserts, mainly of milk, yoghurt, quark, gelatine and/or cream; milk free from alcohol and non-alcoholic mixed milk drinks, including with added cocoa, chocolate or coffee; edible oils and fats, including margarine and lard; spreads, mainly consisting of milk and/or fats, edible fats and edible fat mixtures; cooking oils, cooking fats, separating oils and separating fats for cooking; meat, sausage, fish, fruit and vegetable preserves; delicatessen salads and frozen food, mixed, semi-prepared (including fillings) and prepared meals, including preserved meals, all mainly consisting of meat, sausage, fish, poultry, game, prepared fruits and vegetables, pulses, cheese, eggs, potatoes, corn and/or potato products; mixed pickles; bouillon extracts and other meat stock preparations, in particular meat stock granules; instant soups, soup concentrates; preparations for making soups, in particular meat and vegetable stock cubes.

Class 30:

Coffee, tea, cocoa, sugar (including vanillin and vanilla sugar and glucose for food), rice, tapioca, sago, artificial coffee, coffee and tea extracts; cocoa powder; non-alcoholic coffee, tea, cocoa and chocolate-based beverages including instant drinks; puddings, custard powder and blancmanges, desserts mainly consisting of starch; flour and preparations made from cereals (except animal feed); popcorn, corn flakes (for food); cereals for human consumption, in particular oat flakes or other cereal flakes, in particular being breakfast foodstuffs, including the aforesaid goods mixed with dried fruits (including nuts), sugar and/or honey; potato flour, semolina; pasta, prepared pasta meals and pasta preserves; delicatessen salads as well as frozen food, mixed, semi-prepared (including with fillings) and prepared meals, including preserved meals, mainly consisting of pasta, rice, farinaceous foods and/or potato flour, including the aforesaid goods with added spices and sauces (including salad dressings) and/or combined with bread or bread rolls (including hamburgers or sandwiches); pies, namely meat pies, pies mainly filled with meat, fish, fruit or vegetables and empty pie cases; bread, cookies, cakes and other pastries; sweet and/or savoury snacks mainly consisting of cereals, cocoa, cakes, chocolate, sugar, honey, potato flour and/or pastries; long life cakes and pastries (including with sweet or spicy fillings), in particular crispbread, gingerbread and biscuits; pizzas, including preserved pizzas; chocolate; confectionery, in particular chocolate products and pralines, including confectionery with a filling of fruit, coffee, non-alcoholic drinks, wine and/or spirits, and of milk or milk products, in particular yoghurt; ices, including in the form of ice cream cakes and powder for edible ices; confectionery, in particular sweetmeats (candy) and chewing gum, not for medical purposes; marzipan; honey, invert sugar cream, fruit syrup, treacle; spreadable cocoa mixtures, spreads, mainly consisting of sugar, cocoa and/or nougat; yeast, baking powder, essences for baking (except essential oils); salt for food, mustard, pepper, vinegar, sauces (including salad dressings), powdered sauces and sauce extracts (including the aforesaid goods for salad dressings), salad dressings; mayonnaise; ketchup, spices and condiments; condiments, in particular meat and vegetable stock cubes and soup seasonings, stock paste preparations, vegetable extracts being additives for foodstuffs and meat; ice.

Class 35:

Marketing, sales promotion, sales and purchasing consultancy, market research and market analysis; public relations; personnel recruitment; business, organisation, personnel and professional business consultancy; advertising, including direct advertising and mailings, advertising documents, advertising consultancy, design of advertisements, advertising on the Internet; providing of information and know-how in the commercial and professional business sector, in particular in the retail food sector; sales planning and sales advice; accounting, payroll preparation, office functions; arranging and concluding commercial transactions, arranging contracts for the buying and selling of goods; distribution of samples; retail services and online retail services, in particular discount retail services, in the fields of pharmacy articles, healthcare articles, medicines, sanitary preparations, dietetic substances, food supplements, articles, equipment

and fittings for household, garden, kitchen, bathroom and DIY purposes, auto fittings, computers, computer accessories and software, audio and image carriers, electric apparatus, electronic apparatus, high fidelity sound equipment, home cinema systems, telecommunications equipment and fittings, scientific apparatus, photographic and optical articles, lighting units and fittings, goods of paper, plastic and cellulose, books, office requisites, stationery, school and hobby requisites, packaging materials, metal goods, plastic goods, furniture and furnishings, textiles, clothing, footwear, headgear, articles for babies and children, home textile products and haberdashery, fashion accessories, clocks and watches, jewellery, spectacles, bags, goods of leather and imitations of leather, travel items, umbrellas, games, toys, gymnastic, sporting and leisure articles, foodstuffs, delicatessen articles, bio-products and natural products, beverages, plants, flowers, foodstuffs for animals, articles for animals, luxury items, tobacco products; supermarket, retail outlet and discount retail outlet services in the fields of pharmacy articles, healthcare articles, medicines, sanitary preparations, dietetic substances, food supplements, articles, equipment and fittings for household, garden, kitchen, bathroom and DIY purposes, auto fittings, computers, computer accessories and software, audio and image carriers, electric apparatus, electronic apparatus, high fidelity sound equipment, home cinema systems, telecommunications equipment and fittings, scientific apparatus, photographic and optical articles, lighting units and fittings, goods of paper, plastic and cellulose, books, office requisites, stationery, school and hobby requisites, packaging materials, metal goods, plastic goods, furniture and furnishings, textiles, clothing, footwear, headgear, articles for babies and children, home textile products and haberdashery, fashion accessories, clocks and watches, jewellery, spectacles, bags, goods of leather and imitations of leather, travel items, umbrellas, games, toys, gymnastic, sporting and leisure articles, foodstuffs, delicatessen articles, bio-products and natural products, beverages, plants, flowers, foodstuffs for animals, articles for animals, luxury items, tobacco products; collating of data in computer databases; providing information on the Internet, namely providing information for consumer advice in the fields of the household and textiles (product information) and information for customer services with regard to right of return, product liability and warranty; order placement and delivery services and invoice management, including within the framework of e-commerce; organisation of trade fairs and exhibitions for commercial or advertising purposes; including all the aforesaid services via the Internet and excluding services in the field of building construction.

Class 38:

Telecommunications, in particular providing access to a global computer network and to databases, arranging and leasing of access time to databases, television and radio broadcasting, satellite broadcasting, news agency and press agency services, electronic transmission of messages and images, Internet services, namely providing access to Internet services; operation and provision of portals

CTM 4952149

Mark:

Norma-direct

Date of filing: 10th March 2006

Date of registration: 26th July 2007

Specification:

Class 29:

Meat, sausage, fish (including processed shellfish, crustaceans and molluscs), poultry and game; meat, sausage, poultry, game and fish products; meat extracts; fruit, vegetables, herbs and potatoes in preserved, dried, cooked, frozen or prepared form, including peanut kernels, nuts, almonds and cashew nut kernels, including being snacks; potato products, namely fried, boiled, deep-fried or pre-cooked potatoes, French fries, potato croquettes, potato fritters, potato dumplings, fried potatoes; sweet and/or savoury snacks, mainly consisting of dried fruits, nuts, potato products, peanut kernels, almonds and cashew nut kernels; meat, sausage, fish, fruit and vegetable jellies; marmalades and jams; eggs; milk, in particular buttermilk, sour milk, curds, milk preserves and condensed milk; butter, clarified butter, cheese, in particular quark, cheese preserves, kefir, cream, yoghurt (including yoghurt with added fruit), powdered milk for food; desserts, mainly of milk, yoghurt, quark, gelatine and/or cream; non-alcoholic milk and mixed milk beverages (milk predominating), including with added cocoa, chocolate or coffee; edible oils and fats, including margarine and lard; spreads, mainly consisting of milk and/or fats, edible fats and edible fat mixtures; cooking oils, cooking fats, separating oils and separating fats for cooking; meat, sausage, fish, fruit and vegetable preserves; delicatessen salads and frozen food, mixed, semi-prepared (including fillings) and prepared meals, including preserved meals, all mainly consisting of meat, sausage, fish, poultry, game, prepared fruits and vegetables, pulses, cheese, eggs, potatoes, corn and/or potato products; mixed pickles; bouillon extracts and other meat stock preparations, in particular meat stock granules; instant soups, soup concentrates; preparations for making soups, in particular meat and vegetable stock cubes; food supplements, dietetic substances and food additives, not for medical purposes, with a base of animal and/or vegetable proteins, and/or enriched with

essential fatty acids and/or secondary plant substances.

Class 30:

Coffee, tea, cocoa, sugar (including vanillin and vanilla sugar and glucose for food), rice, tapioca, sago, artificial coffee, coffee and tea extracts; cocoa powder; non-alcoholic coffee, tea, cocoa and chocolate-based beverages including instant drinks; puddings, custard powder and blancmanges, desserts mainly consisting of starch; flour and preparations made from cereals (except animal feed); popcorn, corn flakes (for food); cereals for human consumption, in particular oat flakes or other cereal flakes, in particular being breakfast foodstuffs, including the aforesaid goods mixed with dried fruits (including nuts), sugar and/or honey; potato flour, semolina; pasta, prepared pasta meals and pasta preserves; delicatessen salads as well as frozen food, mixed, semi-prepared (including with fillings) and prepared meals, including preserved meals, mainly consisting of pasta, rice, farinaceous foods and/or potato flour, including the aforesaid goods with added spices and sauces (including salad dressings) and/or combined with bread or bread rolls (including hamburgers or sandwiches); pies, namely meat pies, pies mainly filled with meat, fish, fruit or vegetables and empty pie cases; bread, cookies, cakes and other pastries; sweet and/or savoury snacks mainly consisting of cereals, cocoa, cakes, chocolate, sugar, honey, potato flour and/or pastries; long life cakes and pastries (including with sweet or spicy fillings), in particular crispbread, gingerbread and biscuits; pizzas, including preserved pizzas; chocolate; confectionery, in particular chocolate products and pralines, including confectionery with a filling of fruit, coffee, non-alcoholic drinks, wine and/or spirits, and of milk or milk products, in particular yoghurt; ices, including in the form of ice cream cakes and powder for edible ices; confectionery, in particular sweetmeats (candy) and chewing gum, not for medical purposes; marzipan; honey, invert sugar cream, fruit syrup, treacle; spreadable cocoa mixtures, spreads, mainly consisting of sugar, cocoa and/or nougat; yeast, baking powder, essences for baking (except essential oils); salt for food, mustard, pepper, vinegar, sauces (including salad dressings), powdered sauces and sauce extracts (including the aforesaid goods for salad dressings), salad dressings; mayonnaise; ketchup, spices and condiments; condiments, in particular meat and vegetable stock cubes and soup seasonings, stock paste preparations, vegetable extracts being additives for foodstuffs and meat; ice; food supplements, dietetic substances and food additives, not for medical use, with a base of roughage and/or carbohydrates and/or yeast, in particular beer yeast.

Class 35:

Marketing, sales promotion, sales and purchasing consultancy, market research and market analysis; business, organisation, personnel and professional business consultancy; advertising, including direct advertising and mailings, advertising documents, advertising consultancy, design of advertisements, advertising on the Internet; consultancy in the design of business premises and shops; shop-window dressing; providing of information and know-how in the commercial and professional business sector, in particular in the retail sector;

bookkeeping; payroll preparation, office functions; arranging and concluding commercial transactions for others, arranging contracts for the buying and selling of goods; distribution of samples; retail services, in particular discount retail services, in the fields of pharmacy articles, healthcare articles, medicines, sanitary preparations, dietetic substances, food supplements, products of paper and cellulose, office requisites, packaging materials, household, garden and kitchen articles, clothing, footwear, headgear, foodstuffs, delicatessen articles, organic products and natural products, beverages, plants, flowers, foodstuffs for animals, articles for animals, luxury items and tobacco products; collating of data in computer databases; order placement and delivery services and invoice management, including within the framework of e-commerce; all the aforesaid services except services in the field of building construction.