

O/682/22

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NO. WO0000001514436
BY MA HUANHUAN TO REGISTER THE FOLLOWING TRADE MARK:**



IN CLASS 35

AND

**IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 422158 BY WOWCHER LIMITED**

Background and Pleadings

1. On 2 September 2019, Ma Huanhuan ('the Holder') applied to protect the trade mark, shown on the cover of this Decision, number 1514436 by way of International Registration designating the United Kingdom ('UK'). The instant application was published for opposition purposes in the *Trade Marks Journal* on 21 August 2020. Protection is sought in respect of the following services:

Class 35: *Commercial administration of the licensing of the goods and services of others; sales promotion for others; procurement services for others [purchasing goods and services for other businesses]; provision of an online marketplace for buyers and sellers of goods and services; publicity; business auditing; data search in computer files for others; personnel management consultancy; drug retail or wholesale services; telemarketing services.*

2. On 23 November 2020, the application was opposed by Wowcher Limited ('the Opponent') based on on section 5(2)(b) of the Trade Marks Act 1994 ("the Act"). The Opposition is directed against all of the Applicant's services in class 35. The Opponent relies on the following two earlier registrations for its section 5(2)(b) grounds, relying upon all of the goods and services in their respective specifications:

i) UK00002574863

WOW

Filing date: 11 March 2011

Date registration completed: 4 November 2011

Registered for services in class 35. The specification is fairly lengthy and is therefore reproduced at Appendix (A) to this Decision.

ii) EUTM12492872¹

WOW

Filing date: 10 January 2014

Date registration completed: 18 June 2019

Registered for goods and services in classes 9, 35 and 36. The specification is fairly lengthy and is therefore reproduced at Appendix (B) to this Decision.

3. The Opponent claims that:
 - the applied-for mark is highly similar to the Opponent's two earlier marks;
 - that the parties' respective goods and services are identical and/or highly similar;
and
 - that, therefore, there exists a likelihood of confusion.

4. The holder filed a Defence and Counterstatement in which it:
 - Denies that the applied-for mark is similar to the Opponent's marks;
 - Concedes that the parties' respective goods and services are similar or identical;
and
 - Denies that there is a likelihood of confusion between the parties' respective marks.

5. No evidence has been filed by the Opponent. The Holder filed evidence which has not been admitted because: the further amendments requested were not filed within the prescribed timeframe; and the evidence was not copied to the Opponent. A hearing was neither requested nor considered necessary. Written submissions in lieu of a hearing have been filed by the Opponent only.

6. The Opponent is represented by Haseltine Lake Kempner LLP; the Holder is represented by Gloria Qsing.

¹ Comparable UK mark UK00912492872.

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

Decision

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

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

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

(a) ...

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

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

9. In accordance with section 6 of the Act, the Opponent’s marks are earlier marks by virtue of their earlier filing dates, each of which fell before the filing date of the applied-for mark on 2 September 2019.

10. Section 6A of the Act provides that where the date on which the registration procedure of the earlier mark was completed more than 5 years prior to the application date (or priority date) of the applied-for mark, the Opponent may be required to prove use of the earlier mark. In the instant case, section 6A is engaged in respect of the earlier mark i) UK00002574863 because it had been registered for more than five years on the date on which the Holder filed its application, i.e. 2 September 2019. However, the Holder has not requested that the Opponent file evidence to demonstrate its use of the mark. Section 6A is not engaged in respect of the earlier mark ii) EUTM12492872 because it had been registered for less than five years on 2 September 2019. The Opponent is therefore entitled to rely upon all of the goods and services that it seeks to rely

upon, under both earlier marks.

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

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

The principles:

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

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

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

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

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

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

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

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

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

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

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

Comparison of goods and services

12. Section 60A of the Act provides:

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

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

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

Classification.

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

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

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

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

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

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

16. Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281², identified the following factors for assessing similarity of the respective goods and services:

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

17. Goods or services will be found to be in a competitive relationship only where one is substitutable for the other.³

18. In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods [or services]. In *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06, the General Court stated that “complementary” means:

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

² *British Sugar Plc v James Robertson & Sons Ltd* [1996] R. P. C. 281, pp 296-297.

³ *Lidl Stiftung & Co KG v EUIPO*, Case T-549/14.

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

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

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

20. The Opponent has submitted⁴ that:

‘each of the services in the Opposed Mark is identical with the services for which the earlier trade marks are protected on the basis that either:

- The term is identical with the equivalent protected term, or
- The term overlaps with a protected term, or
- The term falls wholly within a protected term.’

21. The Opponent has set out the respective terms that it deems to be identical in the following table:

⁴ Opponent’s written submissions in lieu of a hearing, paragraph [9].

Term in Opposed Mark	Term in '863 Mark	Term in '872 Mark
Commercial administration of the licensing of the goods and services of others	business ... administration	ditto
Sales promotion for others	promotional services promotional services for the goods and services of others	ditto
Procurement services for others [purchasing goods and services for other businesses]	-	arranging the buying of goods for others
Provision of an online marketplace for buyers and sellers of goods and services	services enabling consumers to conveniently view and compare the goods and services of others	ditto
Publicity	publicity ... services	ditto
Business auditing	business services	ditto
Data search in computer files for others	computerised data processing	ditto
Personnel management consultancy	management consultancy services	ditto
Drug retail or wholesale services	-	retail services provided in connection with the sale of ... pharmaceutical and veterinary preparations
Telemarketing services.	Marketing ... services	ditto

22. As noted above, at [4], the Holder has conceded that the relevant services are identical and/or highly similar.

23. I compare the Holder's term *Commercial administration of the licensing of the goods and services of others* to the Opponent's term *business [...] administration* under both earlier marks. 'Business administration' involves the management of an organisation's people, time and resources in order to ensure that the business is run efficiently and profitably. The Holder's term entails the administrative tasks associated with the licensing of goods and services. The users of this service will be businesses looking to save time and/or the cost of employing their own staff to perform the service. In my view, the Holder's services will be encompassed by the Opponent's term *business [...] administration*. The respective services are therefore 'Meric' identical. If I am wrong about that, then the respective goods are highly similar.
24. I find that the Holder's term *sales promotion for others* will be encompassed by the Opponent's terms *advertising, marketing, public relations, publicity and promotional services* and *advertising and promotional services for the goods and services of others*, both terms under both earlier marks. The services are therefore 'Meric' identical.
25. I find that the Holder's term *procurement services for others [purchasing goods and services for other businesses]* will encompass the Opponent's *arranging the buying of goods for others* under its earlier mark EUTM12492872. The respective services are therefore 'Meric' identical.
25. I find that the Holder's term *provision of an online marketplace for buyers and sellers of goods and services* will be encompassed by the Opponent's term *services enabling consumers to conveniently view and compare the goods and services of others*, which is included in the specifications of both earlier marks. If I am wrong about that, and bearing in mind the Applicant's concession noted at [4], then the respective services are highly similar.
26. The Holder's term *publicity* is self-evidently identical to the Opponent's term *publicity [...] services* as identified within its *advertising, marketing, public relations, publicity and promotional services* under both earlier marks.

27. I find that the Holder's term *business auditing*, as a service provided to businesses, will be encompassed by the Opponent's broader term *business services* under both earlier marks. The respective services are therefore 'Meric' identical.
28. I find that the Holder's *data search in computer files for others* will be encompassed by the Opponent's broader term *computerised data processing [...]* under both earlier marks. The sorting of data by way of returning search results constitutes a form of data processing. I therefore find the respective services to be 'Meric' identical.
29. I find that the Holder's *personnel management consultancy*, as a form of management consultancy, will be encompassed by the Opponent's *business organisation and management consultancy services*. The respective services are therefore 'Meric' identical.
30. I now compare the Holder's *drug retail or wholesale services* against the Opponent's *retail services provided through a television shopping channel, internet website, mail order catalogue, magazine or newspaper publication in connection with the sale of [...] pharmaceutical and veterinary preparations [...]* under mark EUTM12492872. The Holder's *drug retail [...]* services will overlap with the Opponent's services to the extent that the Holder's services are provided through 'television shopping channel, internet website, mail order catalogue, magazine or newspaper publication. I therefore consider these services to be identical to the opponent's services. However, the *Holder's drug [...] wholesale services* will not be encompassed by the Opponent's term or vice versa. In the light of the Holder's concession, I find the respective services to be highly similar.
31. The Holder's *telemarketing services* will fall under the Opponent's broader term *marketing [...]* services, under both earlier marks. I therefore find the respective services to be 'Meric' identical.

Average consumer and the purchasing act

32. In *Hearst Holdings Inc*⁵ Birss J. (as he then was) described the average consumer thus:

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

33. The average consumer will depend on the particular service being engaged. With the exceptions of *provision of an online marketplace for buyers and sellers of goods and services* and *drug retail [...] services*, I consider the average consumer of the relevant class 35 services to be the professional public i.e. businesses. The purchasing act will be primarily visual; the purchaser will likely have first encountered the service provider online. It is recognised that there will be an aural aspect to the purchasing process where the purchaser discusses its requirements with the service provider before committing to a transaction, and word of mouth recommendations may also play a part. In my view, the decision to make a purchase will be fairly prudent; factors influencing the decision including, *inter alia*, business needs. I find that the average consumer will pay a high level of attention during the purchasing act.

34. I now consider the terms: *provision of an online marketplace for buyers and sellers of goods and services* and *drug retail [...] services*. In my view, these services will be purchased by both the general and professional public.


35. I deal with the term *provision of an online marketplace [...] first*. The average consumer will comprise individuals and businesses seeking to buy or sell goods or services. The purchasing act will be primarily visual in the manner described

⁵ *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).

above. There will also be an aural aspect where recommendations are made by word-of-mouth. In my view, the decision to engage the services would be made with a measure of care. Prospective purchasers would likely consider, *inter alia*: the 'terms and conditions' of engaging the service; seller's fees; whether commission is payable and, if so, what percentage of the purchase price. In my view, the general public looking to buy or sell on these platforms would pay at least a medium level of attention when using these services. These services may also be used by small business owners who run their business solely or partially off these platforms. The level of attention of these users is likely to be higher, at least above-medium to high.

36. I consider that the average consumer of *drug retail [...] services*. Average consumers will comprise the general public and the professional public e.g. hospitals and healthcare providers, although I note the latter are more likely to use wholesale services. Although the goods to which the retail services relate will, in my view, likely be purchased with a high level of attention, I consider that the level of attention when choosing the particular undertaking providing the retail services will be lower. From the perspective of the professional purchaser, e.g. a hospital, factors considered might include whether the provider is able to supply the particular products required and in the required quantity, in addition to other factors such as whether the provider is licensed or regulated for the sale of the same. From the standpoint of a member of the general public, factors considered might include the range of goods provided by the retailer. The purchasing process will be primarily visual in the manner already described. There will also be an aural aspect where requests are made to, or advice sought from, retail staff. I find that the increased level of liability held by the professional consumer will mean they are likely to pay a high degree of attention towards the services, whereas members of the general public will pay a medium level of attention during the purchasing act.

Comparison of the marks

Opponent's (earlier marks) ⁶ : WOW	Applicant's (contested) mark: 
---	--

37. It is clear from *Sabel BV v Puma AG* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

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

38. 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.

39. The Opponent's marks are word marks⁷ consisting of the single element 'WOW' rendered in a plain sans serif font, with all characters in upper case. The overall

⁶ The earlier marks are identical.

⁷ In *LA Superquímica v EUIPO*, Case T-24/17, at paragraph [39] it was held that:

‘[...] it should be noted that a word mark is a mark consisting entirely of letters, words or groups of words, without any specific figurative element. The protection which results from registration of a word mark thus relates to the word mentioned in the application for registration and not the specific figurative or stylistic aspects which that mark might have. As a result, the font in which the word sign might be presented must not be taken into account. It follows that a word mark may be used in any

impression of the mark resides in the mark in its entirety.

40. The Holder's mark is a stylised mark including word elements. The words 'OH' and 'WOW' are rendered in a heavily emboldened plain font with a white infill, with the elements 'stacked' so that the 'OH' appears at the top of the mark, with the 'WOW' positioned underneath it. This arrangement is set against a solid black circle. The characters comprising the 'OH' component are uniform in size, whereas the 'o' of the 'WOW' element is of a much smaller size and appears dwarfed by the comparatively larger 'W's flanking it on either side. The overall impression of the mark resides in the mark in its entirety. To my mind, the 'OH' element will be seen first due to its positioning, and the fact that its characters are uniform in size in contrast to the 'WoW' element whose undersized 'o' makes it more difficult to read than 'OH'. However, in my view, neither 'OH' nor 'WOW' is more distinctive than the other, neither element having a particularly high level of inherent distinctive character due to the ubiquity of the words in everyday speech.

41. Visual comparison

The respective marks share the element 'WOW'. The Opponent has submitted⁸ that the point of visual difference between the marks is the presence of the 'OH' element in the Holder's mark, absent from the Opponent's marks. I find this to be the primary point of difference. I also note the following differences:

- the stylisation of the 'o' in the 'WOW' element in the Holder's mark, absent from the Opponent's marks;
- and
- the presence of the circle against which the word elements are set in the Holder's mark, absent from the Opponent's marks.

I find the respective parties' marks to have a medium level of similarity.

form, in any colour or font type (see judgment of 28 June 2017, *Josel v EUIPO — Nationale-Nederlanden Nederland (NN)*, T-333/15, not published, EU:T:2017:444, paragraphs 37 and 38 and the case-law cited).'

⁸ Opponent's written submissions in lieu of a hearing, paragraph [15].

42. Aural comparison

The average consumer will articulate the Opponent's marks 'WAOW'. The holder's mark will be articulated as 'O-WAOW', with the emphasis on the second syllable. The only point of aural difference is the presence of the 'O' sound at the beginning of the Holder's mark, absent from the Opponent's marks. However, both marks are short and, in my view, the difference of one syllable will not go unnoticed by the average consumer. I find the respective marks to be similar to a medium degree.

43. Conceptual comparison

The word 'wow' is a word included in the English dictionary with which the average consumer will be very familiar. It has the following two meanings:⁹

- To say 'wow' is to express surprise, pleasure or that one is impressed by something;
- As a verb, to 'wow' is to induce admiration or enthusiasm in someone e.g. by giving an impressive performance.

44. In my view, the Opponent's marks 'WOW' will convey the idea of the goods and services in respect of which they are registered being impressive in some way.

45. The word 'OH' is also a dictionary word familiar to the average consumer. It is used in the following ways:¹⁰

- to precede a response to something that has just been said e.g. 'would you like a cup of tea?' – 'Oh, yes, please.';
- the utterance 'Oh!' is an expression of emotion such as, *inter alia*, sorrow, surprise, delight, pain, annoyance;
- 'Oh' is often uttered as a 'filler' (akin to 'um' or 'er') when hesitating during speaking.

46. I consider that the Holder's mark 'OH WOW' will be perceived by the average consumer as an expression of being impressed by the goods or services in

⁹ [Wow definition and meaning | Collins English Dictionary \(collinsdictionary.com\)](https://www.collinsdictionary.com/en/english-english/dictionary/wow), accessed 26 July 2022, 19:50

¹⁰ [Oh definition and meaning | Collins English Dictionary \(collinsdictionary.com\)](https://www.collinsdictionary.com/en/english-english/dictionary/oh), accessed 26 July 2022, 19:52

respect of which registration of the mark is sought. In my view, the presence of the 'OH' element does not, conceptually speaking, add anything to the Holder's mark as compared to the Opponent's marks. 'OH', in my view, simply reinforces the idea of 'WOW' as an expression of being impressed by something. I therefore find the respective marks to be conceptually identical.

Distinctive character of the earlier marks

47. *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).

48. Registered trade marks possess varying degrees of inherent distinctive character from the very low, because they are suggestive of, or allude to, a characteristic of the goods or services, to those with high inherent distinctive character, such as invented words which have no allusive qualities.

49. 'Wow' is a well-known word which appears in the English dictionary and is ubiquitous in everyday speech. Although the word does not describe the specific qualities of the goods and services in respect of which the earlier marks are registered, it nevertheless alludes to the goods or services (whatever those goods or services might be) being impressive or excellent. In my view, the laudatory nature of 'Wow' prevents the marks from having a level of inherent distinctive character above the low range.

Likelihood of confusion

50. Confusion can be direct or indirect. Mr Iain Purvis Q. C., as the Appointed Person, explained the difference in the decision of *L.A. Sugar Limited v Back Beat Inc.*¹¹ Direct confusion occurs when one mark is mistaken for another. In *Lloyd Schuhfabrik*,¹² the CJEU recognised that the average consumer rarely encounters the two marks side by side but must rely on the imperfect picture of them that they have kept in mind. Direct confusion can therefore occur by imperfect recollection when the average consumer sees the later mark but mistakenly matches it to the imperfect image of the earlier mark in their 'mind's eye'. Indirect confusion occurs when the average consumer recognises that the competing marks are not the same in some respect, but the similarities between them, combined with the goods/services at issue, leads them to conclude that the goods/services are the responsibility of the same or economically linked undertaking.

¹¹ Case BL O/375/10 at [16].

¹² *Lloyd Schuhfabrik Meyer and Co GmbH v Klijsen Handel BV* (C-34297) at [26].

51. I must keep in mind that a global assessment is required taking into account all of the relevant factors, including the principles a) – k) set out above at [11]. When considering all relevant factors ‘in the round’, I must bear in mind that a greater degree of similarity between goods/services *may* be offset by a lesser degree of similarity between the marks, and vice versa.
52. In my view, despite the identity and similarity between the parties’ goods and services, the net effect of the visual and aural similarities is sufficient to overcome the similarities that I have identified. Notwithstanding the principle of imperfect recollection, and in spite of the parties’ marks being conceptually identical, the average consumer will, in my view, notice that the Holder’s mark has the additional ‘OH’ element. Although, conceptually speaking, the presence of ‘OH’ will not add anything to the ‘WOW’ element, it is my view that the size and positioning of the ‘OH’ at the top of the mark will be registered and recalled by the average consumer paying a medium degree of attention. I find that there is no likelihood of direct confusion.
53. I now consider whether there is a likelihood of indirect confusion. I note that in the recent case of *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 1207, Arnold LJ referred to the comments of James Mellor QC (as he then was), sitting as the Appointed Person in *Cheeky Italian Ltd v Sutaria* (O/219/16), where he said at [16] that “a finding of a likelihood of indirect confusion is not a consolation prize for those who fail to establish a likelihood of direct confusion”. Arnold LJ agreed, pointing out that there must be a “proper basis” for concluding that there is a likelihood of indirect confusion where there is no likelihood of direct confusion.
54. Mr Purvis Q. C., as the Appointed Person, identified the following categories in *L.A. Sugar Limited v Back Beat Inc*¹³ where a finding of indirect confusion might be made:

¹³ Case BL O/375/10

(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)".

55. I note firstly that these categories were not intended to be exhaustive. However, in my view, the instant case does not fall within any of the categories identified by Mr Purvis Q. C. I now consider, therefore, whether there is another basis upon which indirect confusion may occur. I have borne in mind *Whyte and Mackay*¹⁴ in which it was held that where an average consumer perceives that a composite mark consists of two or more elements, one of which has a distinctive significance independent of the mark as a whole, confusion may occur as a result of the similarity/identity of that element to the earlier mark. There is a medium degree of visual and aural similarity between the parties' mark. Although I have found the marks to be conceptually identical, the earlier marks 'WOW' have a level of inherent distinctiveness in the low range. Although the 'OH' element does not add any further concept to the Holder's mark as compared to the Opponent's earlier marks, its positioning, and uniform font size making it easier to read than 'WoW', afford it a measure of visual importance within the mark as a whole. Further, the word WOW does not appear to be independent of the word OH within the overall impression of the Holder's mark, with the two elements completing the spoken phrase "oh wow". I must be prudent not to artificially dissect the mark, and the Holder's mark must be considered as a whole. In my view, the low level of inherent distinctive character of 'WOW' *solus*, combined

¹⁴ *Whyte and Mackay Ltd v Origin Wine UK Ltd and Another* [2015] EWHC 1271.

with the fact that it does not appear to retain an independent distinctive role when it becomes part of the Holder's mark will mean there is no indirect confusion between the marks on this basis.

56. In my view, the presence of 'OH' in the Holder's mark cannot plausibly result in the average consumer perceiving the parties' marks as brand variations or extensions relating to the same or economically linked undertakings. I can see no other mental process by which the average consumer would arrive at a conclusion indicative of indirect confusion. I can find no proper basis on which to make a finding that there is a likelihood of indirect confusion.

Conclusion

57. The Opposition has been unsuccessful. The Application may, subject to a successful appeal, proceed to registration.

COSTS

58. I award the Holder the sum of **£200** as a contribution towards its costs, calculated as follows¹⁵:

Consideration of the Opposition and preparation of Defence and Counterstatement	£200
Total:	£200

59. I therefore order Wowcher Limited to pay to Ma Huanhuan the sum of £200. This sum is to be paid within twenty-one days of the expiry of the appeal period or within twenty-one days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 15th day of August 2022

Mx N. R. Morris

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

¹⁵ Based upon the scale published in Tribunal Practice Notice 2/2016.

Appendices

(A)

The Opponent's earlier mark i) UK00002574863 is registered in respect of the following services:

Class 35:	<i>Price comparison services; retail services in connection with the sale of vouchers, discount cards and coupons; services enabling consumers to conveniently view and compare the goods and services of others; Internet consumer comparison shopping services; promoting the sale of goods and services of others; promoting goods and services of others via a website offering vouchers and rebates; arranging group buying discounts; providing pricing information; information on product availability, discounts and promotions; compilation and provision of product and service descriptions and comparative information; information relating to the location of the retailers of certain products; compilation, provision and dissemination of product ratings and reviews; product reviews offered via a website with links to the websites of others; advertising, marketing, public relations, publicity and promotional services; business services; classified advertising services; advertising and promotional services for the goods and services of others; provision of information relating to special offers, discounts and promotions offered by others; rental of advertising space, dissemination of advertising matter; compilation of advertisements for use as web pages on the Internet; advertising by mail order; business research; compilation and provision of business information, advice and statistics; provision of retail shopping and consumer goods and services information; market information about products and services; provision of ratings, reviews and commercial information regarding retailers, businesses and service providers; provision of commercial information; providing an online commercial information directory on the Internet; advice and assistance relating to the establishment of online retail stores; information services relating to economic commerce; search and retrieval of information; market studies and analysis; business and market research, surveys and</i>
-----------	--

reports; conducting business and pricing surveys; business organisation and management consultancy services; business information services; economic forecasting; computerised business information storage and retrieval services; computerised accounting; computerised database management; computerised data processing and business management advice and consultancy; storage of information; provision of advertisement programmes; news clipping services; business management and administration; organisation and administration of newspaper subscriptions, electronic newspaper subscriptions, and database subscriptions; telecommunications service subscriptions; organisation, operation and supervision of loyalty and incentive schemes; business and employment agency services; business, career and employment counselling, recruitment and placing services; career information and advice; personnel management; organization of exhibitions and trade fairs for commercial or advertising purposes; television, radio and satellite commercials; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database, on-line directory, the Internet or other electronic media.

(B)

The Opponent's earlier mark ii) EUTM12492872 is registered in respect of the following goods and services:

Class 9:	<i>Computer hardware, computer software and computer firmware; software applications; downloadable mobile software applications; mobile telephone software; computer programs; none of the aforesaid goods relating to music entertainment or sound recordings; operating system programs, data synchronization programs, and application development tool programs for personal and handheld computers; prerecorded computer programs for information and data management, database management software, character recognition software, telephony management software, electronic mail and messaging software, paging software; database synchronization software, software for advertising management; software for the placement of online advertisements; computer programs for accessing, browsing and searching online databases and the Internet, computer software and hardware to enable searching of data and connection to databases and the Internet; computer hardware and software for providing integrated communication with computerized global information networks; handheld digital electronic devices and operating software related thereto; computer databases; telephone-based information retrieval software and hardware; software for the redirection of messages, Internet e-mail, and/or other data to one or more electronic handheld devices from a data store on or associated with a personal computer or a server; software for the synchronization of data between a remote station or device and a fixed or remote station or device; electronic images; online electronic publications; electronic publications (downloadable); electronic newspapers, sections, columns and articles; hand held computers, personal digital assistants, electronic organizers, electronic notepads; mobile digital electronic devices, telephones; handheld and mobile digital electronic devices for the sending and receiving of telephone calls, faxes,</i>
----------	---

	<p><i>electronic mail, and other digital data; fonts, typefaces, type designs and symbols in the form of recorded data; modems; wires, cards and filaments, all for bearing encoded programmes for computers; digital imaging devices and digital signal processors; data-processing equipment and computers; computer accessories, screen savers, mouse pads, keyboards, bank cards and debit cards (encoded or magnetic); parts and fittings for all the aforesaid goods; none of the aforesaid goods being related to computer games, video games, electronic games or software relating to such games and none being in the field of Christian, Gospel, Church or Biblical music or Christian, Gospel, Church or Biblical music entertainment.</i></p>
<p>Class 35:</p>	<p><i>Advertising, marketing, public relations, publicity and promotional services; classified advertising services; promotional advertising services; advertising and promotional services for the goods and services of others; promotional advertising of travel, events, concerts, exhibitions and shows; sales promotion for others; promotional marketing; provision of advertisement programmes; advertising mail order; compilation of advertisements for use as web pages on the Internet; rental of advertising space, dissemination of advertising matter; promoting the sale of goods and services of others; promoting goods and services of others via a website offering vouchers and rebates; arranging group buying discounts; organisation, operation and supervision of loyalty, reward and incentive schemes; loyalty card services; customer loyalty services for commercial, promotional and/or advertising purposes; promoting the goods and services of others by providing a website featuring coupons, rebates, price-comparison information, product reviews, links to the retail websites of others, and discount information; promoting the goods and services of others by providing a web site featuring links to the websites of online retailers and service providers; business research; business services; business information services; business management and administration; business organisation and management consultancy services;</i></p>

business and market research, surveys and reports; market studies and analysis; compilation and provision of business information, advice and statistics; provision of commercial information; compilation and provision of product and service descriptions and comparative information; compilation, provision and dissemination of product ratings and reviews; computerised business information storage and retrieval services; computerised data processing and business management advice and consultancy; storage of data and information in the field of business, commerce and trade; computerised database management; conducting business and pricing surveys; organization of exhibitions and trade fairs for commercial or advertising purposes; television, radio and satellite commercials; news clipping services; information services relating to economic commerce; providing an online commercial information directory on the Internet; search and retrieval of information; database subscriptions; newspaper subscriptions; electronic newspaper subscriptions; telecommunications service subscriptions; market information about products and services; price comparison services; price comparison of the goods and services of other vendors, enabling consumers to conveniently view and compare the goods and services of those vendors; providing pricing information; internet consumer comparison shopping services; providing information on product availability, discounts and promotions; promoting the goods and services of others, namely, providing information regarding discounts, coupons, rebates, vouchers and special offers for the goods and services of others; provision of information relating to special offers, discounts and promotions offered by others; product reviews offered via a website with links to the websites of others; provision of ratings, reviews and commercial information regarding retailers, businesses and service providers; promotion of travel; provision of retail shopping and consumer goods and services information; advertising services, namely the provision of retailer location for products; comparison services enabling consumers to conveniently view and compare the goods and services of others;

retail services provided through a television shopping channel, internet website, mail order catalogue, magazine or newspaper publication in connection with the sale of horticultural and forestry products, grains, seeds, composts, potting compositions, preparations for destroying vermin, fungicides, herbicides, plant foods, fertilizers, gardening equipment and accessories, machines for use in the garden, umbrellas, camping gear, barbecues, barbecue accessories, picnic baskets and accessories, bicycles, car and bicycle accessories, safety equipment for vehicles, car cleaning products and accessories, deicing preparations, anti-freeze, motor oils, lubricants, greases, charcoal, fireworks, firelighters, paints, painting and decorating equipment, preservatives, machine tools, power tools, hand tools and implements, carpentry machines, painting and decorating machines, DIY tools, tool boxes, small items of metal hardware, workbenches, ladders, pet grooming and pet care products, collars, leads, harnesses for pets, pet toys, children's riding vehicles, toys, playthings, electronic toys, remote control toys, wires, cards and filaments, musical instruments, cases for musical instruments, music stands, mouse pads, keyboards, on-line electronic publications, electronic publications (downloadable), electronic newspapers, computers, laptops, notepads, hand held computers, personal digital assistants, electronic organizers, computer equipment and accessories, computer hardware, computer software, computer firmware, computer programs, pre-recorded computer programs, modems, data processing equipment, mobile phones, fax machines, pagers, telephones, video recorders, DVD players and writers, communications apparatus, equipment and devices, portable electronic devices, mobile digital electronic devices, handheld and mobile digital electronic devices for the sending and receiving of telephone calls, faxes, electronic mail and other digital data, handheld digital electronic devices and operating software related thereto, digital imaging devices and digital signal processors, video cameras, photographic equipment, cameras, weather stations, programmable electronic apparatus, robots [machines], communications apparatus,

automatic answering apparatus for communications apparatus, satellite television apparatus, electronic radio apparatus, electronic noise cancelling apparatus, scanning apparatus, electronic text processing apparatus, information storage apparatus, timing apparatus, electronic security and theft prevention apparatus, electronic security systems and software, anti-security and theft prevention apparatus, electronic security systems and software, antitheft alarms, surveillance apparatus, navigating and locating apparatus, domestic white goods, protective clothing, eyewear and footwear, safety clothing and equipment, smoke alarms and detectors, fire safety equipment, batteries, adaptors, light bulbs, torches, nightlights, lanterns, optical goods, scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments, calculating equipment, scales, apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes, machines for chilling, cooling and heating, domestic electric kitchen machines and tools, stoves, heaters, boilers, cookers and coolers, fans, hair dryers, hair styling appliances, compasses, magnets, remote control apparatus, scanners, battery chargers, projectors, telescopes, hands-free kits for phones, domestic electrical appliances, barometers, binoculars, word processing equipment, printed matter, paper, cardboard and goods made of these materials, books, journals, magazines, newspapers, publications, instructional and teaching material, calendars, diaries, greeting cards, photo and picture frames, photographic albums, posters, pictures, maps, guides, concert and event tickets, gift vouchers, stationery, artists' materials, artist's stands, paints, stamps, stickers, craft materials, crafts machines, printing and labelling machines, wrapping, sealing and packaging machines, shredding machines, office requisites, office furniture, wrapping and packaging materials, adhesives, machines for household use, food and beverage preparation machines, kitchen machines, blending machines, mixers,

kitchen equipment and accessories, kitchen utensils, domestic nonelectric kitchen apparatus, glassware, porcelain, earthenware, cookware, bake ware, dinnerware, cutlery, bar ware and accessories, household or kitchen utensils and containers, trolleys, storage furniture and accessories, coat hangers, shoe horns, protective bags and covers, briefcases, laptop cases, handbags, purses, wallets, key rings, luggage, clothing, footwear, headgear, lingerie, clothing and fashion accessories, beach accessories, spectacles and sunglasses, sportswear, fitness clothing, exercise equipment, sports bags, gymnastic and sporting articles, fitness aids, air filters, air fresheners, water filters, humidifiers, dehumidifiers, air purifying apparatus and preparations, anti-allergy devices and equipment, filtering machines, steaming, cleaning, washing and polishing machines, products and preparations, cleaning equipment, cleaning utensils, vacuum cleaners, waste disposal machines, washing, drying, pressing and ironing machines, detergents, fabric softeners, conditioners, laundry soap, bleaching preparations, stain removers, dryer balls, laundry bags, clothes pegs, clothes lines, ironing boards, ironing board covers, laundry sprays, drying racks, irons, clothes dryers, laundry bags and baskets, knitting and sewing machines, haberdashery, yarns and threads, pins, needles, shoe laces, textiles and textile goods, bed linen, mattresses, pillows, linen, towels, bathmats, table linen, table wear, wall hangings, soft furnishings, cushions, curtains, carpets, rugs, mats, matting, materials for covering floors, furniture, bathroom fixtures and accessories, mirrors, lamps, lampshades, lighting fixtures and fittings, artificial flowers, decorations and household articles for decorative purposes, ornaments, candles, candle holders, room sprays and scented goods for the home, table decorations, festive decorations, Christmas tree ornaments, clocks, timers, watches, jewellery, precious and semi-precious stones, goods made of precious metals or coated therewith, jewellery boxes, costume jewellery, pharmaceutical and veterinary preparations, dietetic substances, vitamins, minerals and supplements, sanitary preparations, first aid

kits, medicines, pain relief devices and preparations, medical and orthopaedic supports, orthopaedic articles, postural aids, walking aids, hearing aids, thermometers, healthcare equipment and devices, healthcare and beauty care products, scissors, tweezers, nail clippers, nail files, razors, shavers, hair clippers, epilators, personal grooming equipment and products, shaving preparations, hair care products, combs, brushes, sponges, shampoo, conditioner, manicure and pedicure equipment, toiletries, bath and shower products, skin care products, cleansers, toners, moisturisers, wash bags, cosmetic bags, eye care products and accessories, perfumery, deodorants and antiperspirants, sun-care products, cosmetics, dentifrices, baby care products, food for babies, foodstuffs and drinks, food and drink products, cake decorations, alcoholic beverages, tobacco, smokers' articles, cigarettes, matches, cigarette lighters, parts, fittings and accessories for all the aforementioned; retail services in connection with the sale of vouchers, discount cards and coupons; retail services provided through a television shopping channel, internet website, mail order catalogue, magazine or newspaper publication in connection with the sale of discounted horticultural and forestry products, grains, seeds, composts, potting compositions, preparations for destroying vermin, fungicides, herbicides, plant foods, fertilizers, gardening equipment and accessories, machines for use in the garden, umbrellas, camping gear, barbecues, barbecue accessories, picnic baskets and accessories, bicycles, car and bicycle accessories, safety equipment for vehicles, car cleaning products and accessories, de-icing preparations, anti-freeze, motor oils, lubricants, greases, charcoal, fireworks, firelighters, paints, painting and decorating equipment, preservatives, machine tools, power tools, hand tools and implements, carpentry machines, painting and decorating machines, DIY tools, tool boxes, small items of metal hardware, workbenches, ladders, pet grooming and pet care products, collars, leads, harnesses for pets, pet toys, children's riding vehicles, toys, playthings, electronic toys, remote control toys, wires, children's riding vehicles, toys,

playthings, electronic toys, remote control toys, wires, cards and filaments, musical instruments, cases for musical instruments, music stands, mouse pads, keyboards, on-line electronic publications, electronic publications (downloadable), electronic newspapers, computers, laptops, notepads, hand held computers, personal digital assistants, electronic organizers, computer equipment and accessories, computer hardware, computer software, computer firmware, computer programs, pre-recorded computer programs, modems, data processing equipment, mobile phones, fax machines, pagers, telephones, video recorders, DVD players and writers, communications apparatus, equipment and devices, portable electronic devices, mobile digital electronic devices, handheld and mobile digital electronic devices for the sending and receiving of telephone calls, faxes, electronic mail and other digital data, handheld digital electronic devices and operating software related thereto, digital imaging devices and digital signal processors, video cameras, photographic equipment, cameras, weather stations, programmable electronic apparatus, robots [machines], communications apparatus, automatic answering apparatus for communications apparatus, satellite television apparatus, electronic radio apparatus, electronic noise cancelling apparatus, scanning apparatus, electronic text processing apparatus, information storage apparatus, timing apparatus, electronic security and theft prevention apparatus, electronic security systems and software, antitheft alarms, surveillance apparatus, navigating and locating apparatus, domestic white goods, protective clothing, eyewear and footwear, safety clothing and equipment, smoke alarms and detectors, fire safety equipment, batteries, adaptors, light bulbs, torches, nightlights, lanterns, optical goods, scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments, calculating equipment, scales, apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary

purposes, machines for chilling, cooling and heating, domestic electric kitchen machines and tools, stoves, heaters, boilers, cookers and coolers, fans, hair dryers, hair styling appliances, compasses, magnets, remote control apparatus, scanners, battery chargers, projectors, telescopes, hands-free kits for phones, domestic electrical appliances, barometers, binoculars, word processing equipment, printed matter, paper, cardboard and goods made of these materials, books, journals, magazines, newspapers, publications, instructional and teaching material, calendars, diaries, greeting cards, photo and picture frames, photographic albums, posters, pictures, maps, guides, concert and event tickets, gift vouchers, stationery, artists' materials, artist's stands, paints, stamps, stickers, craft materials, crafts machines, printing and labelling machines, wrapping, sealing and packaging machines, shredding machines, office requisites, office furniture, wrapping and packaging materials, adhesives, machines for household use, food and beverage preparation machines, kitchen machines, blending machines, mixers, kitchen equipment and accessories, kitchen utensils, domestic nonelectric kitchen apparatus, glassware, porcelain, earthenware, cookware, bake ware, dinnerware, cutlery, bar ware and accessories, household or kitchen utensils and containers, trolleys, storage furniture and accessories, coat hangers, shoe horns, protective bags and covers, briefcases, laptop cases, handbags, purses, wallets, key rings, luggage, clothing, footwear, headgear, lingerie, clothing and fashion accessories, beach accessories, spectacles and sunglasses, sportswear, fitness clothing, exercise equipment, sports bags, gymnastic and sporting articles, fitness aids, air filters, air fresheners, water filters, humidifiers, dehumidifiers, air purifying apparatus and preparations, anti-allergy devices and equipment, filtering machines, steaming, cleaning, washing and polishing machines, products and preparations, cleaning equipment, cleaning utensils, vacuum cleaners, waste disposal machines, washing, drying, pressing and ironing machines, detergents, fabric softeners, conditioners, laundry soap, bleaching

preparations, stain removers, dryer balls, laundry bags, clothes pegs, clothes lines, ironing boards, ironing board covers, laundry sprays, drying racks, irons, clothes dryers, laundry bags and baskets, knitting and sewing machines, haberdashery, yarns and threads, pins, needles, shoe laces, textiles and textile goods, bed linen, mattresses, pillows, linen, towels, bathmats, table linen, table wear, wall hangings, soft furnishings, cushions, curtains, carpets, rugs, mats, matting, materials for covering floors, furniture, bathroom fixtures and accessories, mirrors, lamps, lampshades, lighting fixtures and fittings, artificial flowers, decorations and household articles for decorative purposes, ornaments, candles, candle holders, room sprays and scented goods for the home, table decorations, festive decorations, Christmas tree ornaments, clocks, timers, watches, jewellery, precious and semi-precious stones, goods made of precious metals or coated therewith, jewellery boxes, costume jewellery, pharmaceutical and veterinary preparations, dietetic substances, vitamins, minerals and supplements, sanitary preparations, first aid kits, medicines, pain relief devices and preparations, medical and orthopaedic supports, orthopaedic articles, postural aids, walking aids, hearing aids, thermometers, healthcare equipment and devices, healthcare and beauty care products, scissors, tweezers, nail clippers, nail files, razors, shavers, hair clippers, epilators, personal grooming equipment and products, shaving preparations, hair care products, combs, brushes, sponges, shampoo, conditioner, manicure and pedicure equipment, toiletries, bath and shower products, skin care products, cleansers, toners, moisturisers, wash bags, cosmetic bags, eye care products and accessories, perfumery, deodorants and antiperspirants, bags, eye care products and accessories, perfumery, deodorants and antiperspirants, sun-care products, cosmetics, dentifrices, baby care products, food for babies, foodstuffs and drinks, food and drink products, cake decorations, alcoholic beverages, tobacco, smokers' articles, cigarettes, matches, cigarette lighters, parts, fittings and accessories for all the aforementioned; arranging of

	<p><i>collective buying; arranging the buying of goods for others; advice and assistance relating to the establishment of online retail stores; counselling, recruitment and placing services; career information and advice; personnel management; negotiation and organisation of transactions for third parties; services for the taking of sales orders; ordering services for customers; computerised accounting; tax preparation; economic forecasting; prize draws for advertising or promotional purposes; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database, on-line directory or from the Internet; none of the aforesaid services relating to computer games, video games, interactive games or software associated with such games and none being in the field of Christian, Gospel, Church, Biblical music or Christian, Gospel, Church or Biblical music entertainment.</i></p>
<p>Class 36:</p>	<p><i>Financial services; insurance services; analysis, evaluation, information and advice relating to insurance and financial services; analysis, evaluation, information and advice relating to money, insurance, financial and investment services, financial planning, financial affairs, monetary affairs, foreign currency, bank accounts, current accounts, bonds, savings, trusts, stocks and shares, contracts, options, securities, futures, commodities, brokerage services, mortgages and loans, assets, tax, credit agreements, pensions and annuities, real estate and property services; provision of information relating to insurance and financial services; financial management services; financial advisory services; banking services; cash disbursement services; electronic cash transactions; electronic payment services; on-line cash account services; electronic commerce payment services, namely establishing funded accounts used to purchase goods and services on the Internet; providing cash and other rebates as part of a customer loyalty program; cash-back services; cash-back account services; issuing of tokens of value in relation to</i></p>

incentive schemes; loyalty coupon processing services; loyalty program payment processing services; arranging for the payment of goods and services; the provision of financial advice and information relating to the supply of consumer goods and services including telecommunications, telephony, Internet service provision, energy supply, electricity, gas, water and insurance services; brokerage services; brokerage services relating to the procurement of the change of suppliers to consumers of goods and services, including the suppliers of consumer goods and services including telecommunications, telephony, Internet service provision, energy supply, electricity, gas, water and insurance services; advice and consultancy relating to property (real estate); estate agency and property services; property surveying and valuation; investment schemes and accounts; investment brokerage; bank card, debit card and credit card services; financial services relating to credit, debit and bank card services; debit, credit and cash account services; cheque verification and cheque cashing; issuing and redemption of traveller's cheques and travel vouchers and advisory services relating thereto; fundraising and financial sponsorship; charitable fund raising services; financial research; credit card services; on-line financial, banking, savings, payment and credit facilities; home banking and Internet banking; financial services relating to travel; travel insurance; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database, on-line directory, the Internet or other electronic media.