

**O/0622/24**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF APPLICATION NO. 3852215  
IN THE NAME OF LEV HAI GENETICS LTD  
TO REGISTER THE FOLLOWING TRADE MARK:**

**MYGENES**

**IN CLASS 42**

**AND**

**IN THE MATTER OF OPPOSITION THERETO  
UNDER NO. 439469  
BY ARCENSUS GMBH**

## Background and pleadings

1. On 23 November 2022, LEV HAI GENETICS LTD (“the applicant”) applied to register the trade mark **MYGENES** in the UK, under number 3852215 (“the applicant’s mark”). Registration is sought for the following services:

Class 42: Scientific research in the field of genetics; scientific research in the field of genetics and genetic testing; genetic testing for scientific research purposes; advisory services relating to gene therapy research; scientific and technological services in the field of genetics and genetic testing; scientific laboratory services; scientific research, testing and analysis services; consultancy relating to technical and scientific analysis; all the foregoing only as they relate to nutrigenetics and pharmacogenetics.<sup>1</sup>

2. On 1 March 2023, arcensus GmbH (“the opponent”) opposed the applicant’s mark under section 5(2)(b) of the Trade Marks 1994 (“the Act”). The opponent relies upon the following trade marks:

i) **myGeneCare**

International registration designating the UK (“IRUK”) no. 1666979

International registration date: 3 November 2021

UK designation date: 3 November 2021

Priority date: 5 May 2021 (Germany)

Protection conferred in the UK: 9 September 2022

(“the opponent’s first mark”)

ii) **myGeneDiary**

IRUK no. 1656064

International registration date: 3 November 2021

UK designation date: 3 November 2021

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<sup>1</sup> The limitation *all the foregoing only as they relate to nutrigenetics and pharmacogenetics* was applied to the services of the applicant’s mark by the filing of Form TM21B on 13 July 2023. By official letter dated 7 August 2023, the opponent was requested to confirm whether this allowed the opposition to be withdrawn. As no response was received, the proceedings continued.

Priority date: 5 May 2021 (Germany)  
Protection conferred in the UK: 14 July 2022  
("the opponent's second mark")

iii) **myGeneHelp**

IRUK no. 1666978  
International registration date: 3 November 2021  
UK designation date: 3 November 2021  
Priority date: 5 May 2021 (Germany)  
Protection conferred in the UK: 9 September 2022  
("the opponent's third mark")

iv) **myGenePredict**

IRUK no. 1666980  
International registration date: 3 November 2021  
UK designation date: 3 November 2021  
Priority date: 5 May 2021 (Germany)  
Protection conferred in the UK: 9 September 2022  
("the opponent's fourth mark")

v) **myGeneWisdom**

IRUK no. 1667352  
International registration date: 3 November 2021  
UK designation date: 3 November 2021  
Priority date: 5 May 2021 (Germany)  
Protection conferred in the UK: 9 September 2022  
("the opponent's fifth mark")

3. The opponent's marks are protected in the UK for goods and services in classes 9, 35, 42 and 44. For the purposes of the opposition, only those in class 42 (which are nearly identical) are relied upon. These are set out in the annex to this decision.

4. The opponent's marks qualify as earlier marks in accordance with section 6 of the Act. As they had not been protected for five years or more at the filing date of the applicant's mark, they are not subject to the use requirements in section 6A of the Act.

5. The opponent claims that the competing marks are similar and that the parties' services are identical or similar, resulting in a likelihood of confusion.

6. The applicant filed a counterstatement, denying the ground of opposition.

7. Both parties are professionally represented; the opponent by Osborne Clarke LLP and the applicant by ASENDALAW LTD. Neither party filed evidence. No hearing was requested and only the applicant filed written submissions in lieu of attendance. This decision is taken following careful consideration of all the papers before me.

### **Relevance of EU law**

8. The provisions of the Act relied upon in these proceedings are assimilated law, as they are derived from EU law. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 (as amended by Schedule 2 of the Retained EU Law (Revocation and Reform) Act 2023) requires tribunals applying assimilated law to follow assimilated EU case law. That is why this decision refers to decisions of the EU courts which predate the UK's withdrawal from the EU.

### **Section 5(2)(b) – legislation and case law**

9. Sections 5(2)(b) and 5A of the Act read as follows:

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

[...]

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

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

“5A Where grounds for refusal of an application for registration of a trade mark exist in respect of only some of the goods or services in respect of which the trade mark is applied for, the application is to be refused in relation to those goods and services only.”

10. The following principles are gleaned from the decisions of the EU courts in *Sabel BV v Puma AG*, Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, *Matratzen Concord GmbH v OHIM*, Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C-120/04, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P and *Bimbo SA v OHIM*, Case C-591/12P:

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

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

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

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other

components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

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

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

(g) a lesser degree of similarity between the goods or services may be offset by a 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 services**

11. The services to be compared can be found at paragraph 1 and in the annex to this decision.

12. The law requires that services be considered identical where one party's description of its services encompasses the specific services covered by the other party's description (and vice versa).<sup>2</sup>

13. Whilst the applicant has limited its services to relate only to nutrigenetics and pharmacogenetics, at least some of the opponent's services are broad categories which are not limited to any particular field of application. Therefore, there is nothing which would prevent these services from relating to nutrigenetics and pharmacogenetics.

14. The following applied-for services fall within the scope of *scientific and technological service[s] and research activities and related design services* in class 42 of all the opponent's marks, and must, therefore, be regarded as identical:

*Scientific research in the field of genetics; scientific research in the field of genetics and genetic testing; genetic testing for scientific research purposes; scientific and technological services in the field of genetics and genetic testing; scientific research, testing and analysis services; all the foregoing only as they relate to nutrigenetics and pharmacogenetics.*

15. The applicant's *scientific laboratory services; all the foregoing only as they relate to nutrigenetics and pharmacogenetics* are clearly encompassed by the broader term *laboratory services*, which appears in class 42 of all the opponent's marks. These services are to be regarded as identical.

16. In my view, *advisory services relating to gene therapy research; consultancy relating to technical and scientific analysis; all the foregoing only as they relate to nutrigenetics and pharmacogenetics* fall within *consultancy and information relating to scientific and technological service[s] and research activities and related design services* in class 42 of all the opponent's marks. As such, they are identical. If that is not correct, it remains the case that the respective services will be highly similar. This is because there will be significant overlaps in nature, purpose and method of use;

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<sup>2</sup> *Gérard Meric v OHIM*, Case T-133/05

moreover, users will overlap, and the respective services are likely to reach the market through the same trade channels.<sup>3</sup>

### **Average consumer and the nature of the purchasing act**

17. As the case law above indicates, it is necessary for me to determine who the average consumer is for the parties' goods. I must then determine the manner in which the goods are likely to be selected by the average consumer. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J (as he then was) described the average consumer in these terms:

“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 [...] 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 words “average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median.”

18. Given the nature of the services at issue in these proceedings, it is my view that the average consumer may be a member of the general public or a professional user. The services are likely to be purchased at varying degrees of frequency; professional users may be more regular purchasers, whereas the general public is likely to seek such services infrequently. The cost of the services is also likely to vary. For example, a simple DNA test is likely to be inexpensive, whilst commissioning extensive or complex scientific research may be relatively expensive. Some services, such as simple DNA tests for the wider public, may not attract an overly considered thought process. However, they will not be merely casual purchases, as consumers will wish to obtain accurate results. Research and testing services for professional purposes

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<sup>3</sup> When making a comparison between services which are not identical, all relevant factors relating to the services should be taken into account; those factors include their nature, intended purpose, method of use, trade channels, users, and whether they are in competition with each other or are complementary: *Canon*, Case C-39/97, paragraph 23, and *British Sugar Plc v James Robertson & Sons Limited* [1996] RPC 281.

are likely to attract more thought; for these services, the average consumer is likely to consider factors such as the range of services offered, accuracy and prior results during the selection process. Taking all of this into account, it is my view that the level of attention will range from medium to high (though certainly not the highest level). The services are likely to be purchased directly from the provider, after viewing information on websites or in brochures. However, there may also be an aural component in the form of consultations with the provider, for example. Therefore, both visual and aural considerations are important.

### **Distinctive character of the earlier marks**

19. In *Lloyd Schuhfabrik Meyer*, 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 *WindsurfingChiemsee 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 *WindsurfingChiemsee*, paragraph 51).”

20. Registered trade marks possess varying degrees of inherent distinctive character. These range from the very low, such as those which are suggestive or allusive of the services, to those with high inherent distinctive character, such as invented words. The degree of distinctiveness is an important factor as it directly relates to whether there is a likelihood of confusion; the more distinctive the earlier mark, the greater the likelihood of confusion.

21. Although the distinctive character of a mark may be enhanced as a result of it having been used in the market, the opponent has filed no evidence of use. Consequently, I have only the inherent position to consider.

22. The opponent's marks are in word-only format and consist of the words 'myGeneCare', 'myGeneDiary', 'myGeneHelp', 'myGenePredict' and 'myGeneWisdom'. Although the words are conjoined, the marks are each made up of three ordinary words. As such, it is my view that the three words in each of the marks will be readily identified, i.e. the opponent's marks will not be perceived as singular, invented words. The distinctiveness of each mark rests in its three respective words. In my view, the opponent's marks allude to scientific services in the field of genetics. On this basis, I find that the opponent's marks possess a relatively low level of inherent distinctive character.

### **Comparison of trade marks**

23. It is clear from *Sabel* 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 *Bimbo* 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.”

24. Therefore, it would be wrong to dissect the trade marks artificially, though it is necessary to take into account the distinctive and dominant components of the marks; due weight must be given to any other features which are not negligible and hence contribute to the overall impressions created by the marks.

25. The marks to be compared are as follows:

<b>The opponent's marks</b>	<b>The applicant's mark</b>
myGeneCare	
myGeneDiary	
myGeneHelp	MYGENES
myGenePredict	
myGeneWisdom	

### Overall impressions

26. The opponent's marks are in word-only format and comprise the words 'myGeneCare', 'myGeneDiary', 'myGeneHelp', 'myGenePredict' and 'myGeneWisdom'. There are no other elements which contribute to the overall impressions, which lie in the respective combinations of words.

27. The applicant's mark is in word-only format and consists of the word 'MYGENES'. The applicant argues that it will be perceived as a single invented word. I disagree. Although they are conjoined, given the services at issue and the fact that they are

ordinary dictionary words, it is my view that consumers will readily identify the words 'MY' and 'GENES'. The overall impression of the mark is dominated by the combination of these words.

### Visual comparisons

28. The applicant's mark and each of the opponent's marks are visually similar because they share six identical letters in the same order, i.e. 'myGene'/'MYGENE'. These shared letters appear at the beginnings of the marks, a position which generally has more impact.<sup>4</sup> The difference in letter case is not significant, since the registration of word-only marks provides protection for the words themselves, irrespective of whether they are presented in upper, lower or title case.<sup>5</sup> The competing marks are visually different insofar as the applicant's mark ends in the letter 'S' and the opponent's marks contain the additional words 'Care', 'Diary', 'Help', 'Predict' and 'Wisdom'; these elements are not replicated in the competing marks. The applicant's mark is also shorter than the opponent's marks. Overall, I find that there is a medium degree of visual similarity between the competing marks.

### Aural comparisons

29. All the words in the competing marks will be given their ordinary pronunciations. The competing marks are all aurally similar as they begin with an identical syllable followed by a highly similar syllable, i.e. "MY-GENE"/"MY-GENES". The competing marks are aurally different because the opponent's marks contain extra syllables resulting from their additional words. Whilst I accept that some of the opponent's marks contain more syllables than others, due to where the similarities between the competing marks are positioned, I find that, overall, there is a medium degree of aural similarity between all the marks.

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<sup>4</sup> *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02

<sup>5</sup> *Migros-Genossenschafts-Bund v EUIPO*, Case T-189/16

### Conceptual comparisons

30. The words 'gene' and 'genes' will be understood in all the competing marks as meaning part of one's DNA which is passed on from parents and controls physical development, behaviour and the like. The applicant's mark will be understood as a reference to one's genes. The opponent's first mark is likely to be seen as referring to taking care of one's genes. The second is likely to be understood as a way in which to track one's genes. The third is likely to be perceived as a reference to improving conditions associated with one's genes. The fourth is likely to be seen as a reference to making statements about future events or actions based upon one's genes. The fifth is likely to be understood as referring to insights or knowledge about one's genes. Clearly, the competing marks all conceptually overlap to the extent that they convey a first-person reference to an individual's genes. The competing marks are conceptually different because the opponent's marks all provide additional meanings which are not replicated in the applicant's mark. Overall, I find that there is a medium degree of conceptual similarity between the competing marks.

### **Likelihood of confusion**

31. There is no scientific formula to apply in determining whether there is a likelihood of confusion; rather, it is a global assessment where a number of factors need to be borne in mind. One such factor is the interdependency principle, i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective services, and vice versa. As mentioned above, it is necessary for me to keep in mind the distinctive character of the earlier trade marks, the average consumer for the services and the nature of the purchasing process. In doing so, I must be mindful that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them that they have retained in their mind.

32. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other, while indirect confusion is where the average consumer realises the marks are not the same but puts the similarity that

exists between the marks and the services down to the responsible undertakings being the same or related.

33. Earlier in this decision, I concluded that:

- The parties' services are identical or highly similar;
- The average consumer is either a member of the general public or a professional user, who will demonstrate between a medium and high degree of attention (but not the highest level);
- The services will be purchased by a combination of visual and aural means;
- The opponent's marks have a relatively low level of inherent distinctive character;
- The overall impressions of the opponent's marks are dominated by the combination of the words 'my Gene Care', 'my Gene Diary', 'my Gene Help', 'my Gene Predict' and 'my Gene Wisdom', respectively;
- The overall impression of the applicant's mark is dominated by the combination of the words 'MY GENES';
- There is a medium degree of visual, aural and conceptual similarity between the competing marks.

34. I acknowledge that the competing marks share the identical string 'MYGENE'/'myGene' and that this appears at the beginnings of the marks. I also accept that the parties' services are identical or highly similar. Nevertheless, there are differences between the marks which are not negligible. The common string in the marks is followed by different, additional letters/words, i.e. the letter 'S' in the applicant's mark and the words 'Care', 'Diary', 'Help', 'Predict' and 'Wisdom' in the opponent's marks. Whilst the average consumer could misremember whether the

word 'gene' was singular or plural, the additional words in the opponent's marks contribute to their overall impressions and render those marks longer than the applicant's mark. Notwithstanding the overall similarities between the competing marks, it is my view that, particularly considering that the opponent's marks are relatively low in distinctiveness, the differences between the marks are likely to be sufficient for the average consumer, paying at least a medium level of attention, to distinguish between them and avoid mistaking the applicant's mark for any of the opponent's marks. Accordingly, even factoring in the principles of interdependency and imperfect recollection, I find that there is no likelihood of direct confusion.

35. That leaves indirect confusion to be considered. In *L.A. Sugar Limited v By Back Beat Inc*, BL O/375/10, Mr Iain Purvis QC, sitting as the Appointed Person, explained that:

“16. Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different from the earlier mark. It therefore requires a mental process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: “The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark.

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

(a) where the common element is so strikingly distinctive (either inherently or through use) that the average consumer would assume that no-one else but the brand owner would be using it 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).”

36. These three categories are not exhaustive. Rather, they were intended to be illustrative of the general approach.<sup>6</sup> I recognise that a finding of indirect confusion should not be made merely because the competing marks share a common element. In this connection, it is not sufficient that a mark merely calls to mind another mark.<sup>7</sup> It has also been emphasised that, where there is no direct confusion, there must be a proper basis for finding indirect confusion.<sup>8</sup>

37. Whilst the average consumer will notice and recall the differences between the competing marks, they will also identify the identical string ‘MYGENE’/‘myGene’ at their beginnings. Whether consciously or unconsciously, this will lead consumers through the mental process described in *L.A. Sugar*. It is my view that the similarities and differences between the competing marks, in the context of identical or highly similar services, readily lend themselves to indicating sub-brands or brand extensions. Firstly, it is likely that the highly similar strings ‘MYGENES’ and ‘myGene’ will be misremembered as one another; the average consumer may not recall whether it is in singular or plural form with sufficient accuracy. The applicant’s mark consists of the words ‘MYGENES’, which could be perceived as the house brand. A highly (and confusingly) similar element appears at the beginnings of the opponent’s marks and

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<sup>6</sup> As was confirmed by the Court of Appeal in *Liverpool Gin Distillery and others v Sazerac Brands, LLC and others* [2021] EWCA Civ 1207, paragraph 12.

<sup>7</sup> *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17

<sup>8</sup> See the Court of Appeal’s comments in *Liverpool Gin Distillery*, paragraph 13.

is followed by additional words which may be seen as indicating particular parts of the 'MYGENES' service offering. For example, the opponent's first mark may be perceived as the limb of 'MYGENES' offering care recommendations based upon the consumer's genes, the second offering a way in which to track the consumer's genes (or gene-related conditions), the third as ways in which conditions associated with one's genes may be improved, the fourth offering insights into the consumer's genes, and the fifth offering health or behavioural predictions based upon the consumer's genes. Notwithstanding the relatively low level of distinctiveness of the opponent's marks,<sup>9</sup> it is my view that the average consumer, even paying a higher level of attention, will assume a commercial association between the parties due to the shared use of 'MYGENES'/'myGene', and the nature of the additional words in the opponent's marks. As a result, I find that there is a likelihood of indirect confusion.

## Conclusion

38. The opposition under section 5(2)(b) of the Act has been successful. Subject to any appeal against my decision, the applicant's mark will be refused.

## Costs

39. The opponent has been successful and is entitled to a contribution towards its costs, based upon the scale published in Tribunal Practice Notice 1/2023. In the circumstances, I award the opponent the sum of **£400**, which is calculated as follows:

Preparing a statement and considering the applicant's counterstatement	£300
Official fees	£100
<b>Total</b>	<b>£400</b>

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<sup>9</sup> Which does not automatically preclude a likelihood of confusion: *L'Oréal SA v OHIM*, Case C-235/05 P.

40. I order LEV HAI GENETICS LTD to pay arcensus GmbH the sum of **£400**. This is to be paid within 21 days of the expiry of the appeal period or within 21 days of the final determination of the proceedings if any appeal against this decision is unsuccessful.

**Dated this 2<sup>nd</sup> day of July 2024**

**James Hopkins**  
**For the Registrar**

## **Annex**

### **Services of IRUK no. 1666979 relied upon**

Class 42: Scientific and technological service and research activities and related design services; industrial analysis and research services; performance of chemical, medical and biological analyses for scientific purposes; research and development and related design in the scientific, medical, veterinary and laboratory fields and for research and data processing purposes; research and development services in the field of biotechnology; research and development in the field of diagnostic agents; medical and pharmacological research services; genetic engineering and infectology research services; conducting clinical trials; conducting scientific studies; laboratory services; medical laboratory services; consultancy in the field of industrial research; scientific, laboratory, scientific research and development of data processing systems consulting services; consulting services, namely, evaluation of the accuracy of laboratory equipment and laboratory test results; scientific and technological consulting services, namely, assistance in the selection and operation of laboratory equipment; scientific and technological advice and assistance to customers of diagnostic equipment and diagnostic kits; provision of information in the field of pharmacology and infectology research; provision of information in the field of research on pharmaceutical products; provision of information in the field of laboratory technology; provision of information on industrial analysis and research; provision of computer programs on data networks; provision of search engines for retrieving data via communication networks; provision of information and data relating to medical and veterinary research and development, in particular by placing data on individual patients in an overall system; provision of information and data relating to scientific and technological research and development; design and development of equipment for medical diagnosis; design and development of testing and analysis procedures; hiring of laboratory apparatus and instruments for medical research; computer-aided scientific research, testing and analysis; design, development and programming of computer hardware, computer software and databases; development and design of database management software; design of databases and websites; implementation of software; maintenance of database software; hiring of database management software; programming database management software for the processing and

management of medical data; renting and updating software for data processing; renting operating software for the use of and access to a cloud computing network; converting data or documents from physical to electronic media; electronic data storage and back-up services; hosting services, in particular hosting of databases, hosting of computerised data, files, applications and information; hosting services, software as a service [SaaS] and rental of software; design and maintenance of websites for third parties; providing information in the fields of laboratory technology; rental, hire and leasing of goods in connection with the provision of the aforementioned services, as far as included in this class; consultancy and information relating to the aforementioned services, as far as included in this class.

### **Services of IRUK no. 1656064 relied upon**

Class 42: Scientific and technological service and research activities and related design services; industrial analysis and research services; performance of chemical, medical and biological analyses for scientific purposes; research and development and related design in the scientific, medical, veterinary and laboratory fields and for research and data processing purposes; research and development services in the field of biotechnology; research and development in the field of diagnostic agents; medical and pharmacological research services; genetic engineering and infectology services; conducting clinical trials; conducting scientific studies; laboratory services; medical laboratory services; consultancy in the field of industrial research; scientific, laboratory, research and data processing consulting services; consulting services, namely, evaluation of the accuracy of laboratory equipment and laboratory test results; scientific and technical consulting services, namely, assistance in the selection and operation of laboratory equipment; scientific and technical advice and assistance to customers of diagnostic equipment and diagnostic kits; provision of information in the field of pharmacology and infectology; provision of information in the field of research on pharmaceutical products; provision of information in the field of laboratory technology; provision of information on industrial analysis and research; provision of computer programs on data networks; provision of search engines for retrieving data via communication networks; provision of information and data relating to medical and veterinary research and development, in particular by placing data on individual patients in an overall system; provision of information and data relating to scientific

and technological research and development; design and development of equipment for medical diagnosis; design and development of testing and analysis procedures; hiring of medical laboratories; computer-aided scientific research, testing and analysis; design, development and programming of computer hardware, computer software and databases; development and design of database management software; design of databases and websites; implementation of software; maintenance of database software; hiring of database management software; programming database management software for the processing and management of medical data; renting and updating software for data processing; renting operating software for the use and access to a cloud computing network; converting data or documents from physical to electronic media; electronic data storage and back-up services; hosting services, in particular hosting of databases, hosting of computerized data, files, applications and information; hosting services, software as a service [SaaS] and rental of software; design and maintenance of websites for third parties; rental, hire and leasing of goods in connection with the provision of the aforementioned services, as far as included in this class; consultancy and information relating to the aforementioned services, as far as included in this class.

### **Services of IRUK no. 1666978 relied upon**

Class 42: Scientific and technological service and research activities and related design services; industrial analysis and research services; performance of chemical, medical and biological analyses for scientific purposes; research and development and related design in the scientific, medical, veterinary and laboratory fields and for research and data processing purposes; research and development services in the field of biotechnology; research and development in the field of diagnostic agents; medical and pharmacological research services; genetic engineering and infectology research services; conducting clinical trials; conducting scientific studies; laboratory services; medical laboratory services; consultancy in the field of industrial research; scientific, laboratory, scientific research and development of data processing systems consulting services; consulting services, namely, evaluation of the accuracy of laboratory equipment and laboratory test results; scientific and technological consulting services, namely, assistance in the selection and operation of laboratory equipment; scientific and technological advice and assistance to customers of

diagnostic equipment and diagnostic kits; provision of information in the field of pharmacology and infectology research; provision of information in the field of research on pharmaceutical products; provision of information in the field of laboratory technology; provision of information on industrial analysis and research; provision of computer programs on data networks; provision of search engines for retrieving data via communication networks; provision of information and data relating to medical and veterinary research and development, in particular by placing data on individual patients in an overall system; provision of information and data relating to scientific and technological research and development; design and development of equipment for medical diagnosis; design and development of testing and analysis procedures; hiring of laboratory apparatus and instruments for medical research; computer-aided scientific research, testing and analysis; design, development and programming of computer hardware, computer software and databases; development and design of database management software; design of databases and websites; implementation of software; maintenance of database software; hiring of database management software; programming database management software for the processing and management of medical data; renting and updating software for data processing; renting operating software for the use of and access to a cloud computing network; converting data or documents from physical to electronic media; electronic data storage and back-up services; hosting services, in particular hosting of databases, hosting of computerised data, files, applications and information; hosting services, software as a service [SaaS] and rental of software; design and maintenance of websites for third parties; providing information in the fields of laboratory technology; rental, hire and leasing of goods in connection with the provision of the aforementioned services, as far as included in this class; consultancy and information relating to the aforementioned services, as far as included in this class.

### **Services of IRUK no. 1666980 relied upon**

Class 42: Scientific and technological service and research activities and related design services; industrial analysis and research services; performance of chemical, medical and biological analyses for scientific purposes; research and development and related design in the scientific, medical, veterinary and laboratory fields and for research and data processing purposes; research and development services in the

field of biotechnology; research and development in the field of diagnostic agents; medical and pharmacological research services; genetic engineering and infectology research services; conducting clinical trials; conducting scientific studies; laboratory services; medical laboratory services; consultancy in the field of industrial research; scientific, laboratory, scientific research and development of data processing systems consulting services; consulting services, namely, evaluation of the accuracy of laboratory equipment and laboratory test results; scientific and technological consulting services, namely, assistance in the selection and operation of laboratory equipment; scientific and technological advice and assistance to customers of diagnostic equipment and diagnostic kits; provision of information in the field of pharmacology and infectology research; provision of information in the field of research on pharmaceutical products; provision of information in the field of laboratory technology; provision of information on industrial analysis and research; provision of computer programs on data networks; provision of search engines for retrieving data via communication networks; provision of information and data relating to medical and veterinary research and development, in particular by placing data on individual patients in an overall system; provision of information and data relating to scientific and technological research and development; design and development of equipment for medical diagnosis; design and development of testing and analysis procedures; hiring of laboratory apparatus and instruments for medical research; computer-aided scientific research, testing and analysis; design, development and programming of computer hardware, computer software and databases; development and design of database management software; design of databases and websites; implementation of software; maintenance of database software; hiring of database management software; programming database management software for the processing and management of medical data; renting and updating software for data processing; renting operating software for the use of and access to a cloud computing network; converting data or documents from physical to electronic media; electronic data storage and back-up services; hosting services, in particular hosting of databases, hosting of computerised data, files, applications and information; hosting services, software as a service [SaaS] and rental of software; design and maintenance of websites for third parties; providing information in the fields of laboratory technology; rental, hire and leasing of goods in connection with the provision of the aforementioned

services, as far as included in this class; consultancy and information relating to the aforementioned services, as far as included in this class.

### **Services of IRUK no. 1667352 relied upon**

Class 42: Scientific and technological service and research activities and related design services; industrial analysis and research services; performance of chemical, medical and biological analyses for scientific purposes; research and development and related design in the scientific, medical, veterinary and laboratory fields and for research and data processing purposes; research and development services in the field of biotechnology; research and development in the field of diagnostic agents; medical and pharmacological research services; genetic engineering and infectology research services; conducting clinical trials; conducting scientific studies; laboratory services; medical laboratory services; consultancy in the field of industrial research; scientific, laboratory, scientific research and development of data processing systems consulting services; consulting services, namely, evaluation of the accuracy of laboratory equipment and laboratory test results; scientific and technological consulting services, namely, assistance in the selection and operation of laboratory equipment; scientific and technological advice and assistance to customers of diagnostic equipment and diagnostic kits; provision of information in the field of pharmacology and infectology research; provision of information in the field of research on pharmaceutical products; provision of information in the field of laboratory technology; provision of information on industrial analysis and research; provision of computer programs on data networks; provision of search engines for retrieving data via communication networks; provision of information and data relating to medical and veterinary research and development, in particular by placing data on individual patients in an overall system; provision of information and data relating to scientific and technological research and development; design and development of equipment for medical diagnosis; design and development of testing and analysis procedures; hiring of laboratory apparatus and instruments for medical research; computer-aided scientific research, testing and analysis; design, development and programming of computer hardware, computer software and databases; development and design of database management software; design of databases and websites; implementation of software; maintenance of database software; hiring of database management

software; programming database management software for the processing and management of medical data; renting and updating software for data processing; renting operating software for the use of and access to a cloud computing network; converting data or documents from physical to electronic media; electronic data storage and back-up services; hosting services, in particular hosting of databases, hosting of computerised data, files, applications and information; hosting services, software as a service [SaaS] and rental of software; design and maintenance of websites for third parties; providing information in the fields of laboratory technology; rental, hire and leasing of goods in connection with the provision of the aforementioned services, as far as included in this class; consultancy and information relating to the aforementioned services, as far as included in this class.