

O/0683/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00003965466

IN THE NAME OF BETR LTD

TO REGISTER THE FOLLOWING TRADE MARK:

BETR

IN CLASSES 5, 21, 25, 32, AND 35

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NO. OP000445562

BY BETR HOLDINGS INC.

Background and pleadings

1. On 9 October 2023, BETR Ltd (“the Applicant”) applied to register the trade mark shown on the cover page of this decision in the UK. The application was accepted and published in the Trade Marks Journal on 27 October 2023 in respect of goods and services in classes 5, 21, 25, 32 and 35, set out in the Annex to this decision.
2. On 29 January 2024, Betr Holdings Inc. (“the Opponent”) partially opposed the application under section 5(2)(b),¹ of the Trade Marks Act 1994 (“the Act”). The opposition is directed at all goods in class 25 only.

Class 25: Clothing; Tracksuit bottoms; Tracksuit tops; Tracksuits; T-shirts; Hooded pullovers; Hooded tops; Sun hats.

3. The Opponent relies upon the following mark:

BETR PICKS

UK Registration no. UK00003907189

Filing date: 2 May 2023

Date of registration: 21 July 2023

Relying upon the goods and services found in the Annex to this decision.

4. By virtue of the earlier filing date, the Opponent’s mark constitutes an earlier mark within the meaning of section 6 of the Act. As the earlier mark had not completed their registration process more than five years before the filing date of the application in issue, it is not subject to the use provisions contained in section 6A of the Act. The Opponent can, therefore, rely upon all of its goods and services without having to demonstrate use.

¹ Originally, the Opponent opposed the application under sections 5(2)(b), 5(3) and 5(4)(a) of the Trade Marks Act 1994 (“the Act”). It also relied on an additional right that was subject to proof of use. However, the Opponent withdrew sections 5(3) and 5(4)(a) via email on 27 November 2024. Further reliance on the additional right that was subject to proof of use is also no longer in use.

5. The Opponent contends that the competing marks are highly similar, and that their respective class 25 goods are identical. Therefore, there exists a likelihood of confusion.
6. The Applicant filed a counterstatement within which it agreed that the class 25 goods were similar to the Opponent's class 35 services, however it denied that the marks are similar or that there was a likelihood of confusion.
7. Neither the Opponent nor the Applicant filed evidence during these proceedings, however the Applicant filed submissions during the evidence rounds. Both parties requested a hearing and agreed to a short format hearing which took place before me on 27 July 2026 by video conference. Neither party filed a skeleton argument prior to the hearing.
8. At the hearing the Applicant was represented by Mr Grundy, a director of the Applicant company; the Opponent chose not to attend and relied on the papers instead. This decision is taken following a careful consideration of the papers and the submissions made during the hearing.

Relevance of EU law

9. 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.

Preliminary issue

10. At the hearing I clarified the earlier right and remaining ground still relied upon in these proceedings that would be the basis of my decision, which are outlined above at paragraphs 2 and 3.

11. The Applicant also helpfully clarified that despite the reference to related proceedings based on UKTM UK00004021659, mentioned in the counterstatement,² there were indeed, at the time of the hearing, no related proceedings based on this mark.

DECISION

Sections 5(2) and 5A

12. Sections 5(2)(b) and 5A of the Act state:

“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”.

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.”

13. The following standard summary of the principles applicable to the assessment of the likelihood of confusion was approved by the Supreme Court in *Iconix Luxembourg Holdings SARL v Dream Pairs Europe Inc & Anor*, [2025] UKSC 25:

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

² See Applicant’s counterstatement, point 7.0.

(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; Page 8 of 20

(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

14. All relevant factors relating to the goods and services should be taken into account, which include, inter alia:³

- the physical nature of the goods and services;
- their intended purpose;
- their method of use / uses;
- who the users of the goods and services are;
- the trade channels through which the goods and services reach the market;
- in the case of self-serve consumer items, where in practice they are found or likely to be found in shops and in particular whether they are, or are likely to be, found on the same or different shelves; and
- whether they are in competition with each other (taking into account how those in trade classify the goods and services, for instance whether market research companies put them in the same or different sectors)

or

³ See *Canon*, Case C-39/97, paragraph 23; and *British Sugar PLC v James Robertson & Sons Ltd.*, [1996] R.P.C. 281 – the “*Treat*” case.

- whether they are complementary to each other. Complementary signifying that “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 and services lies with the same undertaking”.⁴ It is noted that complementarity means that there is an autonomous criterion capable of being the sole basis for the existence of similarity.⁵

15. I bear in mind that it is permissible to group goods together for the purposes of assessment: *Separode Trade Mark*.⁶

16. Further, in *Gérard Meric v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-133/05, the General Court (“GC”) stated that:

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

17. The goods for comparison are as follows:⁷

Opponent’s earlier mark	Applicant’s mark
<u>Class 25:</u> Clothing, namely, tops as clothing and bottoms as clothing; headwear; footwear.	<u>Class 25:</u> Clothing; Tracksuit bottoms; Tracksuit tops; Tracksuits; T-shirts; Hooded pullovers; Hooded tops; Sun hats.

⁴ *Boston Scientific Ltd v OHIM*, Case T-325/06, paragraph 82, see also *Sandra Amalia Mary Elliot v LRC Holdings Limited*, BL O/255/13

⁵ *Kurt Hesse v OHIM*, Case C-50/15 P, see also *Sanco SA v OHIM*, Case T-249/11

⁶ BL O/399/10, paragraph 5

⁷ Whilst the Opponent relies on all of its earlier goods and services, I find that the most relevant ones for the purpose of this decision are those found within class 25 and shown in the table below.

18. At the hearing the Applicant confirmed that he accepted that the clothing goods at issue were similar, but did not quantify the extent of the similarity. For the avoidance of doubt I have set out below why I believe the goods at issue to be identical.

Clothing; Tracksuit bottoms; Tracksuit tops; Tracksuits; T-shirts; Hooded pullovers; Hooded tops

19. The above terms are all **identical** under *Meric* to the Opponent's term "*Clothing, namely, tops as clothing and bottoms as clothing*". This is because all of the above terms would be encompassed by the Opponent's term, except for the term *clothing* which encompasses the Opponent's term.

Sun hats

20. This is encompassed within the Opponent's broader term '*headwear*'; therefore, the goods are **identical** under the principles of *Meric*.

The average consumer and the purchasing act

21. As the case law above indicates, it is necessary for me to determine who the average consumer is for the respective parties' goods. I must then determine the manner in which the goods are likely to be selected by the average consumer.⁸

22. In *Iconix Luxembourg Holdings SARL v Dream Pairs Europe Inc & Anor*, [2025] UKSC 25, the Supreme Court approved the comments of Arnold LJ in *Lidl Great Britain Ltd & Anor v Tesco Stores Ltd & Anor (Rev1)* [2024] EWCA Civ 262, where he pointed out that:

(a) Consumers who are ill-informed or careless, or consumers with specialised knowledge or who are excessively careful are excluded from consideration;

⁸ *Lloyd Schuhfabrik Meyer*, Case C-342/97

(b) The average consumer provides a standard which enables the courts to strike a balance between the competing interests involved, such as trade mark owners, their competitors and consumers;

(c) The average consumer is neither a single hypothetical person nor a mathematical average; assessment from the perspective of the average consumer does not involve a statistical test. There is no single meaning rule and if, having regard to the perceptions and expectations of the average consumer, the court considers that a significant proportion of the relevant public is likely to be confused, a finding of infringement may properly be made;

(d) Assessment from the perspective of the average consumer is intended to facilitate adjudication of trade mark disputes by providing an objective criterion, by promoting consistency of assessment and by enabling courts and tribunals to determine such issues so far as possible without the need for evidence;

(e) The average consumer's level of attention varies according to the category of goods or services in question; and

(f) the average consumer rarely has the opportunity to make direct comparisons between trade marks (or between trade marks and signs) and must instead rely upon the imperfect picture of the trade mark they have kept in their mind.

23. The average consumer of the goods at issue will most likely be a member of the general public. The average consumer is likely to take into consideration various factors when selecting the goods, such as material used, size, colour, quality and cost. Overall, I find that a **medium** degree of attention is likely to be paid during the purchasing process.

24. The goods are likely to be chosen following a visual inspection, including via websites, for example, and so I would expect the purchase to be mainly visual.⁹ However, I bear in mind that the goods may sometimes be the subject of word-

⁹ *New Look Limited v OHIM*, joined cases T-117/03 to T-119/03 and T-171/03, paras 49 and 50.

of-mouth recommendations and therefore aural considerations are also borne in mind.

Comparison of trade marks

25. It is clear from *Sabel* that the average consumer normally perceives a trade 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 trade marks must be assessed by reference to the overall impressions created by the trade marks, bearing in mind their distinctive and dominant components. The CJEU states 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 relevant 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.”

26. It would be wrong, therefore, to dissect the trade marks artificially, although it is necessary to take into account the distinctive and dominant components of the trade 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.

27. Whilst I will not repeat them here, I have taken the parties’ arguments in relation to the competing marks into account.

28. The marks to be compared are as follows:

The Opponent’s mark	The Applicant’s contested mark
BETR PICKS	BETR

Overall Impression

29. The Applicant's mark is a word only mark, BETR. This is an invented word, which will likely be understood as being a shortened version, or unusual spelling of the word 'better'. As such, the overall impression lies in the word itself.

30. As for the Opponent's earlier mark this is also a word only mark, containing the words BETR PICKS, in which the word BETR will be understood as discussed above and the word PICKS as a normal dictionary word. In my view, the overall impression lies in the words in roughly equal measure, but with the word BETR having slightly more of an impact given its unusual spelling.

Visual similarity

31. The marks coincide in the identical shortened or misspelt word BETR, which is the entirety of the contested mark and falls at the beginning of the earlier mark where consumers tend to focus their attention.¹⁰ However, the Opponent's mark also includes the word PICKS at the end of its mark. As such, I consider the marks visually similar to **at least a medium degree**.

Aural similarity

32. In both marks the shared word BETR will be pronounced in the same way as the ordinary English word 'better'. As such, the contested mark contains just two syllables. In contrast, the earlier mark possesses three syllables, two arising from the word BETR and one from the word PICKS which will be articulated in the usual manner. Whilst the marks coincide in the first two syllables due to the presence of the identical word BETR they differ as a result of the additional syllable found at the end of the earlier mark. Accordingly, I consider the competing marks to be aurally similar to somewhere **between a medium and high degree**.

¹⁰ *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02

Conceptual similarity

33. For a conceptual message to be relevant it must be capable of immediate grasp by the average consumer.¹¹

34. Both marks contain the word BETR. As I have referred to above, this will be recognised as a shortening or misspelling of the ordinary dictionary defined word 'better', meaning of a higher standard, or more suitable, pleasing or effective than other things or people. In addition, the earlier mark also contains the word PICKS which is the plural of pick meaning to choose something from a number of options. Therefore, the earlier mark would be seen as alluding to making/picking better choices. However, the meaning of the word BETR will be the same in both of the respective marks and consequently the marks are conceptually similar to a **medium degree**.

Distinctive character of the earlier mark

35. 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 *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

¹¹ *Ruiz Picasso v OHIM* [2006] e.c.r.-I-643; [2006] E.T.M.R 29.

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)."

36. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods, to those with high inherent distinctive character, such as invented words which have no allusive qualities. The distinctiveness of a mark can be enhanced by virtue of the use that has been made of it.
37. No evidence of use has been provided by the Opponent for me to determine whether the distinctiveness has been enhanced by use. As such, I have only the inherent position to consider.
38. The earlier mark is a word only mark containing the words "BETR PICKS". The word BETR although an invented word will be understood as discussed, i.e. as a shortening or misspelling of the word better. The word PICKS will be understood in line with its dictionary definition as discussed above. Therefore, the earlier mark will be seen as alluding to making/picking better choices in relation to clothing goods at issue and being laudatory of them. However, given the novel way in which the word BETR is spelt, this has the effect of elevating the distinctiveness of the mark. As such, I find that the earlier mark enjoys a medium level of distinctiveness.

Likelihood of confusion

39. 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 goods and services down to the responsible undertakings being the same or related. 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. The first 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 goods and services and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the Opponent's trade mark, the average consumer for the goods, and the nature of the purchasing process. In doing so, I must be alive to the fact 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 he has retained in his mind, and the interdependency principle.

40. I have found the marks to be visually similar to at least a medium degree, aurally similar to between a medium and high degree, and conceptually similar to a medium degree. I have found the earlier mark to possess a medium level of distinctiveness. I have identified the average consumer to be the general public who will pay a medium level of attention, and the goods to be identical.

41. Whilst the marks coincide in the presence of the word "BETR" I find that the additional word PICKS within the earlier mark is unlikely to be overlooked by consumers paying a medium degree of attention, and as such there is no likelihood of direct confusion.

42. However, I must go on to consider indirect confusion.

43. In relation to indirect confusion this was best described in the following terms by Iain Purvis QC (as he then was), sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc*:¹²

"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 recognised that the later mark is different from the earlier mark. It therefore requires a mental process of some kind on

¹² BL O/375/10

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)."

44. These three categories are not exhaustive; rather, they were intended to be illustrative of the general approach, as has been confirmed by the Court of Appeal. 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: this is mere association not indirect confusion.¹³

¹³ *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17

45. In *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.

46. Whilst consumers will recognise the differences between the marks in the additional word found in the earlier mark, they will also acknowledge the similarities in that both marks contain the identical highly unusual spelling, or shortening, of the word ‘better’, and as such the shared meaning deriving from this word. I do not consider that consumers on seeing this element will believe it to be merely coincidental. Rather, given the identical novel spelling used, they will believe that it denotes a house brand, with BETR PICKS being a sub brand of the BETR line of clothing i.e. specially chosen garments from within the BETR range. Consequently, I consider there to be a likelihood of indirect confusion.

CONCLUSION

47. The opposition based upon 5(2)(b) has been entirely successful for all the goods that were contested i.e. the class 25 goods and the application, subject to any appeal, will be refused for those goods.

48. The remaining uncontested goods and services of the application i.e. the goods and services in classes 5, 21, 32 and 35, will proceed to registration.

COSTS

49. The Opponent has been successful and is entitled to an award of costs. The relevant scale is contained in Tribunal Practice Notice (“TPN”) 1/2023. Applying the guidance in the TPN, I award the following:

Official fee

£100

Preparing a statement and considering the other side's statement	£250
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Total	£350
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50. I therefore order BETR Ltd. to pay Betr Holdings Inc. the sum of £350. The above sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 30th day of July 2026

Sarah Wallace
For the Registrar

Annex

Goods and services under UKTM UK00003965466, the applied for mark.

Class 5: Dietary and nutritional supplements for humans; Dietary supplement drinks; Protein dietary supplements; Glucose dietary supplements; Nutritional supplements; Dietary supplement drink mixes; Dietary supplements for infants; Mineral dietary supplements for humans; Dietary supplements in powder form; Powdered nutritional supplement drink mix; Dietary supplements for humans not for medical purposes; Powdered fruit-flavoured dietary supplement drink mix; Dietetic and nutritional preparations; Rehydration preparations.

Class 21: Bottle buckets; Bottle coolers; Bottles; Bottles, sold empty; Drinking straws; Drinking bottles for sports; Drinking glasses.

Class 25: Clothing; Tracksuit bottoms; Tracksuit tops; Tracksuits; T-shirts; Hooded pullovers; Hooded tops; Sun hats.

Class 32: Powders used in the preparation of fruit-based drinks; Powders used in the preparation of soft drinks; Sports drinks; Sports drinks containing electrolytes.

Class 35: Retail services relating to the sale of, food supplements, dietary and nutritional supplements and preparations, prebiotic supplements, protein supplements, protein powder dietary supplements

Goods and services under UKTM UK00003907189, the earlier right.

Class 9: Downloadable software for use in betting or gambling; Downloadable computer games software for use on mobile phones, tablets and other electronic mobile devices or any software installed on stationary devices; Downloadable computer application software for mobile phones, tablets,

terminals including without limitation self-serve betting terminals and other electronic devices, namely, software for use in betting or gambling; Downloadable mobile applications for online betting, gaming, gambling and wagering on sports events; Downloadable mobile applications for providing sports and esports programming and information; Downloadable mobile applications for providing information related to sports betting; Downloadable mobile applications for providing previews, alerts, replays, video clips of sporting competitions, and web cam feeds, all in the field of sports and esports; Downloadable mobile applications for providing computer and video programs, news and entertainment, all in the field of sports and esports; Downloadable mobile application for providing entertainment and sports and esports related news; Downloadable mobile applications for use in fantasy sports leagues, namely, mobile applications for managing and participating in fantasy sports leagues; Downloadable mobile applications for organizing, arranging, conducting, and participating in sports betting and gambling tournaments, competitions and contests; Downloadable virtual goods, namely, computer programs related to online gaming and gambling for use online and in online virtual worlds; Downloadable files authenticated by non-fungible tokens (NFTs); Downloadable image files authenticated by non-fungible tokens (NFTs); Downloadable video files authenticated by non-fungible tokens (NFTs); Downloadable software for blockchain-based inventory management; Downloadable computer software for managing and verifying currency transactions on a blockchain; Downloadable software for virtual money; Downloadable software for cryptocurrency; Downloadable cryptographic keys for receiving and spending cryptocurrency; none of the aforesaid relating to television (including a channel, programmes, broadcasting or other modes of telecommunication).

Class 25: Clothing, namely, tops as clothing and bottoms as clothing; headwear; footwear.

Class 35: Provision of an online marketplace for the purchase and sale of non-fungible tokens (NFTs) that link to and/or authenticate digital art, digital graphics, digital collectibles, digital photography, digital video clips, downloadable transferable desktop graphic files, downloadable transferable video clips, and/or downloadable transferable images; none of the aforesaid relating to television (including a channel, programmes, broadcasting or other modes of telecommunication).

Class 41: Bookmaking services, namely, providing of information related to sports betting; Organizing, arranging, and conducting sports betting and gambling tournaments, competitions and contests; Betting services; Gambling services; Wagering services; Gaming services in the nature of wagering on sports events; Gaming services in the nature of casino gambling; Entertainment services, namely, providing sports betting and sportsbook wagering services; Entertainment services in the nature of fantasy sports leagues; Entertainment services, namely, providing online casino-style games and games of chance; Entertainment services, namely, providing online computer games of chance and wagering games; Entertainment services, namely, providing online slot machine-style games; Entertainment services, namely, providing sports and esports programming in the nature of a continuing program featuring sports and esports delivered by radio, the internet, and web cam; Entertainment services, namely, providing news and information, previews, alerts, replays, video clips of sporting competitions, and web cam feeds distributed via various platforms across multiple forms of transmission media, all in the field of sports and esports; Entertainment services, namely, non-downloadable online computer games, sports-themed computer games and videos in the nature of fantasy sports and esports leagues presented to mobile communications devices via a global computer network and wireless networks; Entertainment services, namely, contest and incentive award programs designed to reward program participants who engage in online betting, gaming, gambling and wagering on sports events; Entertainment services in the nature of fantasy sports and esports leagues, provided via downloadable mobile

software applications and distributed via various platforms across multiple forms of transmission media; Entertainment services, namely, non-downloadable podcasts featuring information, news and commentary in the field of sports, entertainment, popular culture and current events; Entertainment services, namely, an ongoing multimedia program featuring information, news and commentary in the field of wagering, sports, entertainment, popular culture and current events, distributed via various platforms across multiple forms of transmission media; Providing a website featuring news, commentary and information in the field of sports and sports betting; Providing a website featuring multimedia content in the nature of non- downloadable videos, articles, podcasts, and images in the fields of sports, entertainment, popular culture and current events; Providing a website featuring multimedia content in the nature of non-downloadable videos, articles, podcasts, and images in the fields of sports, entertainment, popular culture and current events; Providing a website featuring online betting, gaming, gambling and wagering services related to sporting events; entertainment services, namely, providing an on-line computer game; Providing online information, news and commentary in the fields of sports, entertainment, popular culture and current events; Provision of information relating to electronic computer games provided via the Internet; Providing online information, news and commentary in the fields of sports, entertainment, popular culture and current events; Providing news and information, including previews, alerts and replays, in the field of sports and esports presented to mobile communications devices via a global computer network and wireless networks; Provision of information relating to electronic computer games provided via the Internet; Providing a web-based system and online portal for participation in on-line gaming; On-line gaming services, namely, providing use of on-line non-downloadable video game software that accepts currency and/or cryptocurrency wagers and accepts currency and cryptocurrency for in-game purchases; Conducting and providing facilities for sports betting and sportsbook wagering; none of the

aforesaid relating to television (including a channel, programmes, broadcasting or other modes of telecommunication).