

O/0898/24

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00003744464

BY MERCADOLIBRE INC.

TO REGISTER:



(SERIES OF TWO)

AS A TRADE MARK IN CLASS 35

AND

IN THE MATTER OF THE OPPOSITION THERETO

UNDER NO. 435993

BY MELI NV

BACKGROUND AND PLEADINGS

1. On 18 January 2022, MERCADOLIBRE INC. (“the applicant”) applied to register the series of two trade marks (“the contested mark”) shown on the cover page of this decision, in the UK. The application was accepted and published in the Trade Marks Journal on 03 June 2022 in respect of a range of services in class 35. The full list of services is at Annex 1 below. The application claims a priority date of 25 November 2021 from of a previous trade mark applications, namely EUTM no. 018608310.

2. On 02 September 2022, the application was partially opposed by MELI NV (“the opponent”) based upon Section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). The opponent relies on the following trade mark (“the earlier mark”) and all of the goods covered by the same, as shown below:

UK00003588637

MELI

Filing date: 02 February 2021

Registration date: 13 August 2021

Goods:

Class 30: *Honey; honey cake; honey biscuits; honey balls; honey licorice; raw honeycombs; royal jelly; energy bars; nougat; chocolate; chocolate products; chocolate-based beverages; pastry and confectionery; snack bars based on oatmeal, wheat germ, brown sugar or honey, also containing seeds, dried fruit and nuts; breakfast cereals; bars based on wheat; snack bars consisting of a mixture of cereals, honey, nuts and / or dried fruits [candy].*

3. The opposition is directed against only those services underlined in Annex 1, which, for ease of reference, I reproduce below:

“the bringing together for the benefit of others of various products (except for their transportation), so that consumers can examine and purchase at their convenience through global computer communication networks (internet) including facilitation in contracting (commercial assistance) for the purchase and sale of goods through global computer communication networks (online

commercial platforms) namely (...) flour and preparations made from cereals, (...), pastries and confectionery, chocolate, honey.”

4. The opponent claims that the marks are similar and that the goods and services are similar, with the result that there is a likelihood of confusion.

5. By virtue of its earlier filing date, the trade mark relied upon by the opponent is an “earlier mark” in accordance with Section 6 of the Act. As the opponent’s earlier mark had not been registered for five years or more at the filing date of the applied-for mark, it is not subject to proof of use. Consequently, the opponent may rely on all of the goods it has identified without demonstrating that it has used the mark.

6. The applicant filed a counterstatement, denying the claims made.

7. On 19 July 2023, the Registrar issued a preliminary indication under Rule 19 of the Trade Marks Rules 2008 and Tribunal Practice Notice 3/2007. I confirm that the finding of the preliminary indication is not binding upon me.

8. The opponent is represented by KOB nv. The applicant is represented by Keltie LLP. Neither party filed evidence during the proceedings and neither party requested a hearing, however, I note that the opponent filed written submissions dated 27 November 2023. I make this decision having taken full account of all the papers, referring to them as necessary.

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.

DECISION

Section 5(2)(b)

10. Section 5(2)(b) of the Act reads as follows:

“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.”

11. Section 5A of the Act is as follows:

“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.”

12. 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 greater degree of similarity between the marks, and vice versa;

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

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

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

(k) if the association between the marks creates a risk that the public 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

13. When making the comparison, all relevant factors relating to the goods and services in the specifications should be taken into account. In the judgment of the Court of Justice of the European Union (“CJEU”) in *Canon*, Case C-39/97, the court stated at paragraph 23 that:

“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.”

14. Guidance on this issue has also come from Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, where he identified the factors for assessing similarity as:

(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.

15. In *Gérard Meric v OHIM* Case T- 133/05, the 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 for 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.”

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

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

17. In *Sanco SA v OHIM*, Case T-249/11, the GC indicated that goods and services may be regarded as ‘complementary’ and therefore similar to a degree in circumstances where the nature and purpose of the respective goods and services are very different. The purpose of examining whether there is a complementary relationship between goods and services is to assess whether the relevant public are liable to believe that responsibility for the goods and services lies with the same

undertaking or with economically connected undertakings. As Mr Daniel Alexander QC noted as the Appointed Person in *Sandra Amelia Mary Elliot v LRC Holdings Limited* BL O/255/13:

“It may well be the case that wine glasses are almost always used with wine – and are, on any normal view, complementary in that sense – but it does not follow that wine and glassware are similar goods for trade mark purposes.”

18. Whilst on the other hand:

“[...] it is neither necessary nor sufficient for a finding of similarity that the goods in question must be used together or that they are sold together.”

19. The competing goods and services are set out at paragraphs 2 and 3 above.

20. In its counterstatement, the applicant stated that the respective goods and services are very different in nature, although it did not elaborate in any way on this argument.

21. The opponent stated that the competing goods and services are complementary relying on *Oakley, Inc v OHIM*, Case T-116/06, in which, at paragraphs 46-57, the GC held that although retail services are different in nature, purpose and method of use to goods, retail services for particular goods may be complementary to those goods, and distributed through the same trade channels, and therefore similar to a degree.

22. In addition to *Oakley*, I bear in mind that in *Tony Van Gulck v Wasabi Frog Ltd*, Case BL O/391/14, Mr Geoffrey Hobbs Q.C. as the Appointed Person reviewed the law concerning retail services v goods. He said (at paragraph 9 of his judgment) that:

“9. The position with regard to the question of conflict between use of **BOO!** for handbags in Class 18 and shoes for women in Class 25 and use of **MissBoo** for the Listed Services is considerably more complex. There are four main reasons for that: (i) selling and offering to sell goods does not, in itself, amount to providing retail services in Class 35; (ii) an application for registration of a trade mark for retail services in Class 35 can validly describe the retail services

for which protection is requested in general terms; (iii) for the purpose of determining whether such an application is objectionable under Section 5(2)(b), it is necessary to ascertain whether there is a likelihood of confusion with the opponent's earlier trade mark in all the circumstances in which the trade mark applied for might be used if it were to be registered; (iv) the criteria for determining whether, when and to what degree services are 'similar' to goods are not clear cut."

23. However, on the basis of the European courts' judgments in *Sanco SA v OHIM*, Case C-411/13P and *Assembled Investments (Proprietary) Ltd v. OHIM*, Case T-105/05, at paragraphs [30] to [35] of the judgment, upheld on appeal in *Waterford Wedgewood Plc v. Assembled Investments (Proprietary) Ltd* Case C-398/07P, Mr Hobbs concluded that:

- i) Goods and services are not similar on the basis that they are complementary if the complementarity between them is insufficiently pronounced that, from the consumer's point of view, they are unlikely to be offered by one and the same undertaking;
- ii) In making a comparison involving a mark registered for goods and a mark proposed to be registered for retail services (or vice versa), it is necessary to envisage the retail services normally associated with the opponent's goods and then to compare the opponent's goods with the retail services covered by the applicant's trade mark;
- iii) It is not permissible to treat a mark registered for 'retail services for goods X' as though the mark was registered for goods X;
- iv) The General Court's findings in *Oakley* did not mean that goods could only be regarded as similar to retail services where the retail services related to exactly the same goods as those for which the other party's trade mark was registered (or proposed to be registered)."

24. The specification of the earlier mark covers goods in class 30 which are self-evidently identical to the goods to which the applicant's retail services relate, namely honey, chocolate, pastry and confectionery. Based on the principles set out in *Oakley*, I find that the applicant's services "*the bringing together for the benefit of others of various products (except for their transportation), so that consumers can examine and purchase at their convenience through global computer communication networks (internet) including facilitation in contracting (commercial assistance) for the purchase and sale of goods through global computer communication networks (online commercial platforms) namely pastries and confectionery, chocolate, honey*" in class 35 are similar to a **medium degree** to the opponent's "*honey; chocolate; pastry and confectionery*" in class 30.

25. The remaining services objected to by the opponent are retail services relating to "*flour and preparations made from cereals*". The term "*preparations made from cereals*" covers, in my view, products derived from cereal processing to prepare their starch for human consumption, including flour made from cereals for use in bakery. Although the specification of the opponent's earlier mark does not cover "*flour and preparations made from cereals*", the registered goods include *chocolate products* in class 30 which includes food products made from cocoa beans and used to flavour or coat bakery products. Admittedly, the opponent's goods and the goods the applicant wishes to retail are not identical, however, *Waterford* clarified that *Oakley* did not mean that goods could only be regarded as similar to retail services where the retail services related to exactly the same goods as those for which the other party's trade mark is registered. Accordingly, I find that the applicant's retail services of *flour and preparations made from cereals* in class 35 are normally associated with the opponent's *chocolate products* in class 30, and there is sufficient relatedness between the goods and services to conclude that they are similar to a **low degree**.

Average consumer

26. As the case law above indicates, it is necessary for me to determine who the average consumer is for the respective goods and services. I must then determine the manner in which the goods and services 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 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 words “average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median.”

27. The average consumer for the parties’ goods and services will be a member of the general public. Although the opponent’s goods are inexpensive and the applicant’s retail services relate to inexpensive goods, when selecting the goods and services, the consumer will take a number of factors into account such as flavour and origin (for the goods) and stocks available and location (for the services). Consequently, I consider that a medium degree of attention will be paid during the purchasing process for the goods and services.

28. The goods are likely to be selected from the shelves of supermarkets or retail outlets (or their online equivalents) or following the perusal of marketing material. The services are likely to be selected from physical signage, websites or promotional material. Consequently, visual considerations are likely to dominate the selection process. However, I do not discount that aural components may play a part as word-of-mouth recommendations may be made.

Comparison of marks


29. 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.”

30. 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.

31. The respective marks are shown below:

The applicant's mark (series of two)	The opponent's mark
	MELI

32. The parties have made submissions on the similarities and differences between the marks. The applicant claims that its mark contains a very prominent visual element that is not present in the opponent's mark. The opponent states that although the device element in the applicant's mark might not go unnoticed, it makes a lesser contribution overall. I agree with the opponent. It is a general rule of thumb that words speak louder than devices. I consider that rule to be applicable here. Although the device element of two hands shaking each other presented in an oval shape has a

visual impact, it is the word element 'meli' by which the applicant's mark is likely to be referred to and which carries the greater weight in the overall impression of the mark.

33. The earlier mark 'MELI' is a word-only mark that consists of the word 'MELI'. There are no other elements to contribute to the overall impression of the mark, which lies in the word itself.

Visual similarity

34. Visually, registration of a word-only mark covers use in any casing; consequently, the fact that the applicant's mark is presented in title case and the opponent's mark is presented in upper case is not a point of visual difference.

35. The verbal elements of the marks, i.e. 'meli'/'MELI' are identical. The marks differ in that the applicant's mark presents a figurative element consisting of two hands shaking each other on an oval background whereas the opponent's mark has no other visual elements.

36. I consider the figurative element of the applicant's mark to be weak in distinctiveness, owing to it not being visually striking and conveying a laudatory message (see below). Overall, I consider the marks to be visually similar to a high degree.

Aural similarity

37. In an aural comparison of the marks, it is unlikely that a consumer would vocalise the device element of the applicant's mark. The marks are aurally identical.

Conceptual similarity

38. In a conceptual comparison of the marks, to the extent that the only verbal element of the marks, namely the word 'meli', has no immediately graspable concept, the conceptual position is neutral.

39. The figurative element of the two hands shaking in the applicant's mark will be perceived as laudatory and weakly distinctive because it will convey the meaning of loyalty and trust, in particular it will be understood by the average consumer as indicating that the undertaking behind the goods wants to give the impression that is trustworthy.

Distinctive character of earlier mark

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

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

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

41. Registered trade marks possess various degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods or services, to those with high inherent distinctive character, such as

invented words which have no allusive qualities. The distinctiveness of a mark can be enhanced by virtue of the use made of it.

42. The opponent did not file any evidence showing use for the goods relied upon so I can only consider the inherent distinctiveness of the earlier mark.

43. The earlier mark consists of the word 'MELI' which will be perceived as invented. Unusual or invented words are normally high in distinctiveness. The opponent claims that the earlier mark is distinctive to a medium degree. Accordingly, I find that the earlier mark is distinctive to, at least, a medium degree.

Likelihood of confusion

44. 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 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 earlier mark, the average consumer for the goods and services 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 marks and must instead rely upon the imperfect picture of them that they have retained in their mind.

45. Confusion can be direct or indirect. The difference between these two types of confusion was explained in *L.A. Sugar Trade Mark*, BL O/375/10, where Iain Purvis Q.C. (as he then was) 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).”

46. In *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 1207, Arnold LJ approved Mr Purvis’s formulation but added:

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

finding of a likelihood of indirect confusion'. I would prefer to say that there must be a proper basis for concluding that there is a likelihood of indirect confusion given that there is no likelihood of direct confusion.”

47. Earlier in this decision I found that:

- the objected services are similar to a medium or low degree to the goods relied upon by the opponent;
- the competing marks are visually similar to a high degree and aurally identical. Conceptually, the elements 'MELI' convey no concept, whereas the difference created by the figurative element in the contested mark is weak in distinctiveness;
- the goods and services will be selected visually (though I do not discount aural considerations completely) with a medium degree of attention;
- the earlier mark is distinctive to, at least, a medium degree.

48. I keep all these findings in mind when considering whether a likelihood of confusion exists.

49. Bearing in mind that the only verbal element of the applicant's mark is identical to the entirety of the opponent's mark, and it is the most important part of the mark, and given the limited impact of the device element in differentiating the marks, I consider that there is a risk of confusion, even in relation to the services that are similar to a lesser degree. This arises primarily out of the risk of the average consumer overlooking the figurative element of the applicant's mark and focusing on the identical verbal element 'meli/MELI' (direct confusion).

50. Alternatively, if the average consumer were to notice the difference between the marks, they would consider the figurative element in the applicant's mark as the addition of a non-distinctive element to the earlier mark, namely an ornamental

figurative element conveying the laudatory message that the undertaking behind the goods is trustworthy. In those circumstances, the later mark would be perceived as sub-brand or brand extension of the earlier mark, giving rise to indirect confusion.

OUTCOME

51. The partial objection is successful.

52. Subject to any successful appeal against my decision, the application no. UK00003744464 will be refused for the objected services namely:

Class 35: *The bringing together for the benefit of others of various products (except for their transportation), so that consumers can examine and purchase at their convenience through global computer communication networks (internet) including facilitation in contracting (commercial assistance) for the purchase and sale of goods through global computer communication networks (online commercial platforms) namely (...) flour and preparations made from cereals, (...), pastries and confectionery, chocolate, honey.*

53. The application no. UK00003744464 will proceed to registration for the unobjected services, namely those highlighted in grey in Annex 1.

COSTS

54. The opponent has been successful and is, therefore, entitled to a contribution towards its costs based upon the scale published in Tribunal Practice Notice 2/2016. In the circumstances, I award the opponent the sum of £500, calculated as follows:

Preparing a notice of opposition:	£200
Written submissions:	£200
Official fees:	£100
Total	£500

55. I therefore order MERCADOLIBRE INC. to pay MELI NV the sum of £500. This sum is to be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings.

Dated this 16th day of September 2024

TERESA PERKS

For the Registrar

Annex 1

Advertising; marketing; promotional services; commercial business management; business administration; office functions; provision of online sales space for sellers and buyers of products and services; dissemination of advertisements and advertising material [flyers, brochures, catalogs and samples]; advertising for third parties; online marketplace operation services for sellers and buyers of goods and services; commercial business operations [for third parties]; provision of evaluative feedback and weighting of merchants' goods and services, of the sales value of the merchant's products, of the performance of sellers and buyers, of the distribution and general experience in relation thereto (provision of commercial and business information); the bringing together for the benefit of others of various products (except for their transportation), so that consumers can examine and purchase them at their convenience through global computer communication networks (internet), including facilitation in contracting (commercial assistance) for the purchase and sale of goods through global computer communication networks (online commercial platforms) namely chemicals for use in industry, science and photography, as well as in agriculture, horticulture and forestry, Unprocessed artificial resins, unprocessed plastics, fire extinguishing and fire prevention compositions, tempering and soldering preparations, Substances for tanning animal skins and hides, Adhesives for use industry, Putties and other paste fillers, compost, manures, fertilizers, Biological preparations for use industry and science, Chemicals for use in industry, science and photography as well as in agriculture, horticulture and forestry, Unprocessed artificial resins, unprocessed plastics, Fire extinguishing and fire prevention compositions, tempering and soldering preparations, substances for tanning animals skins and hides, adhesives for use in industry and science, paints, varnishes lacquers, preservatives against rust and against deterioration of wood, Colorants, dyes, inks for printing, marketing and engraving, Raw natural resins, Metals in foil and powder form for use in painting, decorating, printing and art, tattoo inks, Non-medicated cosmetics and toiletry preparations, non-medicated dentifrices, Perfumery, essential oils, Bleaching preparations and other substances for laundry use, Cleaning, polishing, scouring and abrasive preparations, Industrial oils and

greases, wax, lubricants, Dust absorbing, wetting and binding compositions, Fuels and illuminants, Candles and wicks for lighting, Pharmaceuticals, medical and veterinary preparation, Sanitary and hygienic preparations for medical purposes, Dietetic food and substances adapted for medical or veterinary use, food for babies, Dietary supplements for human beings and animals, Plasters, materials for dressings, Material for stopping teeth, dental wax, Disinfectants, preparations for destroying vermin, Fungicides, herbicides, Common metals and their alloys, ores, Metal materials for building and construction, Transportable buildings of metal, Non-electric cables and wires of common metal, Small items of metal hardware, Metal containers for storage or transport, Safes, Cranes, pumps, compressors and blowers, equipment for moving and shifting goods, power generators, machinery for agriculture, earthmoving, construction, oil and gas extraction and mining, dispensing machines, sweeping, cleaning, washing and laundry machines, emergency and rescue machines and machine tools, machines and machine tools for materials processing and manufacturing, industrial robots, jaws of life (electric rescues shears), engines (except engines for land vehicles), couplings and transmission elements, except for land vehicles, agricultural implements other than hand tools operated by hand, egg incubators, vending machines and electrical appliances, hand tools and implements, hand-operated, cutlery, forks and spoons, Side arms, razors, tattooing equipment and needles, Consoles, televisions, scientific, research, navigational, geodetic, photographic, cinematographic, audio-visual, optical, weighing, measuring, signalling, detecting, testing, checking, controlling (supervision), life-saving and teaching apparatus and instruments, apparatus and instruments for conducting, distributing, transforming, accumulating, regulating or controlling the distribution or consumption of electricity, apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data, recorded or downloadable media, software, blank digital or analogue recording and storage media, films, recorded music, mechanisms for coin-operated apparatus, cash registers, computing devices, computers and computer peripherals, accessories for computers, cameras and accessories for cameras, mobile phones and telephony, printing products, video games, projectors, diving suits, diving masks, diving ear plugs, nose clips for divers and swimmers, diving gloves, breathing apparatus for underwater swimming, fire extinguishers, goggles, glasses,

windsocks, Surgical, medical, dental and veterinary apparatus and instruments, Artificial limbs, eyes and teeth, Orthopaedic articles, Suture materials, Therapeutic and assistive devices adapted for persons with disabilities, Massage apparatus, Apparatus devices and articles for nursing infants, Sexual activity apparatus, devices and articles, Apparatus and installations for lighting, heating, cooling, steam generating, cooking, drying, ventilating, water supply and sanitary purposes, incineration ovens, Vehicles, Apparatus for locomotion by land, air or water, parts and accessories for vehicles, automobiles motorbikes, boats, trucks, coaches, firearms, ammunition and projectiles, Explosives, fireworks, Precious metals and their alloys, Jewellery, precious and semi-precious stones, Horological and chronometric instruments, Musical Instruments, Music Stands and stands for musical instruments, Conductors`batons, Paper and cardboard, Printed matter, Bookbinding material, Photographs, Stationery and office requisites, except furniture, Adhesives for stationery or household purposes, Drawing materials and materials for artists, Paintbrushes, Instructional and teaching materials, Plastic sheets, films and bags for wrapping and packaging, Printers`type, printing blocks, printed tickets for events, books, magazines and comics, invitations and cards, temporary tattoos, Unprocessed and semi-processed rubber, gutta-percha, gum, asbestos, mica and substitutes for all these materials, Plastics and resins in extruded form for use in manufacture, Packing, stopping and insulating materials, Flexible pipes, tubes and hoses, not of metal, Leather and imitations of leather, Animal skins and hides, Luggage and carrying bags, Umbrellas and parasols, Walking sticks, Whips, harness and saddlery, Collars, leashes and clothing for animals, Materials, not of metal, for building and construction, Rigid pipes, not of metal, for building, Asphalt, pitch, tar and bitumen, Transportable buildings, not of metal, Monuments, not of metal, Furniture, mirrors, picture frames, Containers, not of metal, for storage or transport, Unworked or semi worked bone, horn, whalebone or mother-of-pearl, Shells, Meerschaum, Yellow amber, works of art, Household or kitchen utensils and containers, Cookware and tableware, except forks, knives and spoons, combs and sponges, Brushes, except paintbrushes, Brush-making materials, Articles for cleaning purposes, Unworked or semi-worked glass, except building glass, Glassware, porcelain and earthenware, properties, products for home and garden, Ropes and string, Nets, Tents and tarpaulins, Awnings of textile

or synthetic materials, Sails, Sacks for the transport and storage of materials in bulk, Padding, cushioning and stuffing materials, except of paper, cardboard, rubber or plastics, Raw fibrous textile materials and substitutes therefor, Yarns and threads, for textile use, Textiles and substitutes for textiles, Household linen, Curtains of textiles or plastic, Clothing, work clothing, footwear, work shoes, headwear, Lace, braid and embroidery, and haberdashery ribbons and bows, Buttons, hooks and eyes, pins and needles, Artificial flowers, Hair decorations, False hair, Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors, Wall hangings, not of textiles, Games, toys and playthings, Video game apparatus, Gymnastics and sporting articles, Decorations for Christmas trees, cotillion items, party products, tarot cards, Meat, fish, poultry and game, Meat extracts, preserved, frozen, dried and cooked fruits, legumes and vegetables, Jellies, jams, compotes, Eggs, Milk, Cheese, butter, yoghurt and other milk products, Oils and fats for food, Coffee, tea, cocoa and substitutes therefor, Rice, pasta and noodles, Tapioca and sago, Flour and preparations made from cereals, Bread, pastries and confectionery, Chocolate, Ice cream, sorbets and other edible ices, Sugar, honey, treacle, Yeast, baking powder, Salt, Seasonings, spices, preserved herbs, Vinegar, sauces and other condiments, Ice [Frozen water], Raw and unprocessed agricultural, aquacultural, horticultural and forestry products, Raw and unprocessed grains and seeds, Fresh fruit, legumes and vegetables, fresh herbs, Natural plants and flowers, Bulbs, seedlings and seeds for planting, Live animals, Foodstuffs and beverages for animals, Malt, Beers, Non-alcoholic beverages, Mineral and aerated waters, Fruit beverages and fruit juices, Syrups and other preparations for making non-alcoholic beverages, Alcoholic beverages, except beers, Alcoholic preparations for making beverages, Tobacco and tobacco substitutes, Cigarettes and cigars, Electronic cigarettes and oral vaporizers and smokers, Smoker`s articles, Matches, baby products, namely baby walkers and baby carriages, baby bathing articles, soothers, baby food, playpens, hygiene and care products, baby toys and games, baby clothing and footwear ; provision of commercial information and advice to the consumer in the selection of products and services; provision of consumer information on products via the Internet; provision of online auction services; Internet marketing; advertising services provided via the Internet; rental of advertising space on the Internet; compilation of directories for publication on the Internet; Internet

consulting in business management; Internet consulting in commercial management; dissemination of advertisements via the Internet; organization and holding of auctions; automobile advertising services; Internet advertising for third parties; advertising on behalf of third parties on the Internet; Internet marketing consultancy services; provision of business information via the Internet, cable networks or other forms of data transfer; rental of advertising space on the Internet for job advertisements; market research services on Internet usage habits; provision via the Internet of information relating to the sale of automobiles; provision of business and trade contact information via the Internet; provision of business directory information via the Internet; subscription to Internet services for third parties; business administration services for the processing of sales made on the Internet; compilation of advertisements for use on the Internet; compilation of advertisements for use as web pages and on the Internet; presentation of companies on the Internet and other media; presentation of companies and their products and services on the Internet; promotion of products and services of third parties on the Internet and facilitation and rental of advertising space on the Internet; providing an online directory of business information on the Internet; market research services related to Internet usage habits and customer loyalty; information, advisory and consulting services in business management and business administration provided online or over the Internet; administration of a discount program for participants to obtain discounts on products and services through the use of membership discount cards; administration of consumer loyalty programs.