

O/0923/24

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NO. UK00003440072
BY JACK GUINNESS
TO REGISTER THE FOLLOWING SERIES OF TRADE MARKS:**

**Queer Bible
QUEER BIBLE**

IN CLASS 41

AND

**IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 423393
BY THE LADBIBLE GROUP LIMITED**

Background and pleadings

1. On 29 October 2019, Jack Guinness (“the applicant”) applied to register the series of trade marks shown on the cover page of this decision in the UK. The application was published for opposition purposes on 27 November 2020 and registration is sought for a long list of services in class 41. The applied-for services cover a range of educational and entertainment services relating to the history and culture of the LGBTQ+ community; the full list is set out in Annex 1 to this decision.

2. On 1 March 2021, The Ladbible Group Limited (“the opponent”) opposed the application based upon Sections 5(2)(b), 5(3) and 5(4)(a) of the Trade Marks Act 1994 (“the Act”).

3. Under Sections 5(2)(b) the opponent relies upon the following six trade marks (“the earlier marks”) and the goods and services covered by the same as listed in Annex 2 to this decision:

UK00003296777 (“the first earlier mark”)

LAD BIBLE

Filing date: 14 March 2018

Registration date: 08 June 2018

Classes: 9, 38, 41

UK00003195897 -Series of two (“the second earlier mark”)

BIBLE

bible

Filing date: 09 November 2016

Registration date: 22 March 2019

Classes: 9, 38, 41

EUTM 14266531 (“the third earlier mark”)

The GAMING Bible

Filing date: 16 June 2015

<p>Registration date: 15 December 2015</p> <p>Classes 9, 16, 25, 35, 38, 41, 42</p>
<p>EUTM 13065024 (“the fourth earlier mark”)</p> <p>The SPORT Bible</p> <p>Filing date: 08 July 2014</p> <p>Registration date: 25 November 2014</p> <p>Classes 9, 16, 25, 35, 38, 41, 42</p>
<p>EUTM 16780521 (“the fifth earlier mark”)</p> <p>TRAVEL BIBLE</p> <p>Filing date: 30 May 2017</p> <p>Registration date: 20 March 2018</p> <p>Classes 9, 35, 38, 39, 41, 42</p>
<p>EUTM 16749087 (“the sixth earlier mark”)</p> <p>CONTENT BIBLE</p> <p>Filing date: 18 May 2017</p> <p>Registration date: 07 December 2017</p> <p>Classes: 9, 16, 35, 38, 41, 42, 45</p>

4. The opponent’s marks qualify as “earlier trade marks” in accordance with Section 6 of the Act because they were applied for at an earlier date than the filing date of the applicant’s mark. Since none of the earlier marks had been registered for five years or more at the filing date of the applied-for mark, they are not subject to proof of use. Consequently, the opponent may rely on all of the goods and services it has identified without demonstrating that it has used the marks.

5. Under Section 5(2)(b), the opponent claims that the marks are highly similar and that the goods and services are identical or highly similar, leading to a likelihood of confusion.

6. Under Section 5(3), the opponent initially relied upon the same earlier marks relied upon under Section 5(2)(b), however, it subsequently dropped its reliance on the second and fifth earlier marks which are no longer relied upon under this ground.

7. In the Form TM7 the opponent claims that the earlier marks have a reputation in respect of all of the registered goods and services. However, the statement of grounds clarifies that the reputation developed by the opponent derives from its use of the earlier marks in relation to “*the provision and publication of online news and entertainment media goods and services*”. In this connection, the opponent claims to be portrayed as an online news and entertainment media brand to its consumers and to have a massive reputation as such. Further, the opponent submits that use of the applied-for mark would, without due cause, take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier marks.

8. Under Section 5(4)(a), the opponent at first claimed to have used ten unregistered signs that follow the pattern '(NOUN)+BIBLE' or 'BIBLE' alone. However, following a slight scaling back of the opposition as pleaded in the Form TM7, the opponent now relies on the six signs shown below, which it claims to have used throughout the UK since the various dates indicated in brackets in relation to the goods and services also listed below:

Sign	Goods and services
LAD BIBLE (2011)	<i>Publication of on line news and entertainment media content; electronic publications and recordings; downloadable publications and recordings; application software; on line forums; telecommunications; broadcasting services; webcasting services; podcasting services; entertainment services; education services; sporting and cultural activities; online education entertainment services; interactive information provided online via the Internet and other computer and communication networks; publishing services; digital video, audio and multimedia entertainment publishing services; multimedia publishing of magazines, journals and news; provision of audio and/or visual material and games on line (not downloadable); gaming services; advertising services;</i>
SPORT BIBLE (2013)	
FOOD BIBLE (2015)	
ODDS BIBLE (2015)	
GAMING BIBLE (2015)	
CONTENT BIBLE (2015)	

	<i>online advertising services; arranging, organising and conducting of games, contests, competitions, quizzes, awards, conferences, exhibitions, courses, seminars and events.</i>
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9. The opponent claims to have accrued significant goodwill and reputation in its family of 'BIBLE' marks. Further, it claims that use of the applied-for mark would cause a misrepresentation to consumers which could lead to damage, either in terms of substandard goods or services supplied by the applicant, or through the diversion of sales. As such, the opponent claims, use of the applied-for mark would be contrary to the law of passing-off.

10. The applicant filed a defence and counterstatement in which they (a) claimed that there are significant differences between the marks, (b) denied that there is a likelihood of confusion and (c) put the opponent to proof of reputation and goodwill. However, the applicant conceded that the goods and services are identical or similar. They states:

"10. Whilst there is identity and/or similarity of the services covered by the Subject Application in class 41, this does not equate to there being a likelihood of confusion, including a likelihood of association with the Earlier Marks. Indeed, the substantial difference in the prefix of the Subject Application and the Earlier Marks means that there is an absence of a likelihood of confusion ..."

11. As part of their defence, the applicant relied on their use of the applied-for mark and on the existence of other trade marks incorporating the word 'BIBLE' and filed evidence in support of their argument of honest concurrent use with the Form TM8. Generally, in trade mark opposition proceedings, evidence is filed during the normal evidence rounds. However, as the evidence filed with the form TM8 was in the correct format, it was considered as filed under Rule 20 of the Trade Marks Rules 2008 at the appropriate time. Although the applicant was given an opportunity to file additional evidence during the evidence rounds, they elected not to do so.

12. Both parties filed evidence, the applicant with his Form TM8, the opponent during the evidence rounds. A hearing took place before me on 13 May 2024, by video conference with the applicant represented by Abigail Wise of Lewis Silkin LLP. The opponent elected to be represented at the hearing by Charlotte Blythe of Counsel instructed by Bristows LLP.

EU Law

13. 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.

The evidence

14. The opponent's evidence comes in the form of two witness statements from two directors of the opponent, Ben Elshaw, Director of Group Operations, and Lindsay Turner, Director of Marketing and Communication. Mr Elshaw's witness statement is dated 24 March 2023, is accompanied by 27 exhibits (BE1-9, BE 11-12, BE 14-29) and seeks to establish that the opponent has reputation and goodwill in the marks/signs relied upon. Ms Turner's statement is dated 6 March 2023, is accompanied by 2 exhibits (LT1-2) and seeks to provide further information on the opponent's provision of content and services focused on the LGBTQ+ space.

15. The applicant's evidence comes in the form of a witness statement from the applicant himself, Jack Guinness. The applicant's evidence is dated 29 September 2022 and is accompanied by 17 exhibits (JG1-17); as I have already touched upon, it is aimed at supporting the applicant's claim of honest concurrent use.

16. I do not intend to summarise the parties' evidence in full here. However, I confirm that I have taken all filed documents into account and will summarise them to the extent that I deem necessary below.

DECISION

Section 5(2)(b) of the Act

17. Section 5(2)(b) states:

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

(a) ...

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

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

18. Section 5A states:

“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.”¹

19. The following principles for determining whether there is a likelihood of confusion under section 5(2)(b) of the Act are taken from the decisions of the Court of Justice of the European Union (“CJEU”) in *Sabel BV v Puma AG*, Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, *Matratzen Concord GmbH v OHIM*, Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C-

¹ This section also applies to the grounds raised under sections 5(3) and 5(4)(a) of the Act.

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 goods and services

20. When making the comparison, all relevant factors relating to the goods and services in the specifications should be taken into account. In *Canon Kabushiki Kaisha*, the Court of Justice of the European Union (“CJEU”) stated that:

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

21. Guidance on this issue was also given by Jacob J (as he then was) in *British Sugar Plc v James Robertson & Sons Limited (“Treat”)* [1996] RPC 281. At [296], he identified the following relevant factors:

(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.

22. The General Court (“GC”) confirmed in *Gérard Meric v OHIM*, Case T-133/05, paragraph 29, that, even if goods (though it equally applies to services) are not worded identically, they can still be considered identical if one term falls within the scope of another, or vice versa.

23. In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU held that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods or services. The GC clarified the meaning of “complementary” goods or services in *Boston Scientific Ltd v OHIM*, Case T-325/06, at paragraph 82:

“[...] 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.”

The applicant’s submissions

24. In their Form TM8 the applicant conceded that there is “*is identity and/or similarity of the services covered by the Subject Application in class 41*”. Those are the applicant’s pleadings. Neither Ms Blythe nor Ms Wise drew my attention to this

concession at the hearing. In her skeleton argument, Ms Wise referred to Section 60A of the Act as the basis for the proposition that the fact that goods and services are in the same class does not necessarily mean that they are similar; however, she did not make an application to amend the applicant's pleadings, nor did she submit that the parties' goods and services in class 41 are dissimilar. Rather, she argued that the comparison of goods and services is wholly irrelevant in light of the fact that the marks are not confusingly similar and stated that even if it is considered that there may be similarity between the parties' services in class 41, this does not equate to a likelihood of confusion. She then went on to deny the existence of any identity or similarity between the applicant's services and the other goods and services (which cover classes 9, 16, 25, 35, 38, 39, 42, 45) for which the earlier marks are registered.

25. It seems to me that the applicant has in fact conceded the point that the parties' services in class 41 are either identical or similar. Admittedly, it would have been helpful if the applicant had identified the services it considers to be less than identical and had specified whether the degree of similarity for non-identical services is high, medium or low. I will return to this in a moment, but before I do, I will comment on two further points Ms Wise raised at the hearing and I will explain why they have no relevance for the purpose of what I need to decide.

26. First, the limitation. Ms Wise referred to the applied-for services being limited by the following text "*all the aforesaid relating to the history and culture of the LGBTQ+ community*" which restricts the subject matter of the services to the history and culture of the LGBTQ+ community. As Ms Blythe correctly noted at the hearing, the specifications of the earlier marks are not limited in any way, and so the opponent's services notionally cover those relating to the history and culture of the LGBTQ+ community. The limitation, cannot, therefore, prevent a finding that the services are identical.

27. Second, Ms Wise made a number of submissions about how, in practice, the applicant's services are different from those provided by the opponent. She submitted that the applicant uses the contested mark in relation to a platform for the LGBTQ+ community where members can share stories, and that the applicant had hosted a number of events to raise funds for charities. She also argued that the parties' services

are delivered in a completely different way to consumers, because the applicant does not have a platform in which it dispenses online content and videos like the opponent, and users of the applicant's services need to access a specific website for viewing news and events and can subscribe to a newsletter to get alerts. None of these facts have any bearing on the assessment I am required to make. When considering the likelihood of confusion under Section 5(2)(b) the assessment must be based, in fact, on the concept of 'notional and fair use' which involves carrying out the comparison of the goods and services based on the specifications before me, not the goods and services effectively provided by the parties.²

The opponent's submissions

28. In her skeleton argument, Ms Blythe provided a table showing where she claimed there is identity between the parties' services in class 41. The applied-for services are not listed item by item, but grouped in broad categories and the relevant comparison is based on the services covered by the first and the second earlier mark which, Ms Blythe explained, the opponent considers to be the strongest ground for its opposition under Section 5(2)(b). Accordingly, I will follow a similar approach focusing on the marks identified by Ms Blythe; I will return to the other earlier marks when dealing with the opponent's "family of marks" argument.

My approach

29. Given the applicant's concession that all of the applied-for services in class 41 are identical or similar to the opponent's services in class 41, I will proceed on the basis that the competing services are similar to, at least, a low degree.

30. Further, Ms Blythe's approach of identifying the applied-for services by reference to broad categories is a sensible one given the length of the specification for which registration is sought. I will adopt the same approach, though I have slightly altered the relevant categories. Finally, I will identify any remaining services which I believe

² *O2 Holdings Limited, O2 (UK) Limited v Hutchison 3G UK Limited*, Case C-533/06 at [66] and *Compass Publishing BV v Compass Logistics Ltd* [2004] RPC 41 at [22]

do not fall within the broad categories identified below. With these considerations in mind, I make the following findings:

The organisation and provision of cultural, educational and entertainment services including the provision of online entertainment.

31. The applied-for services cover a wide range of educational and entertainment services including the following: arranging and conducting of educational courses and events, training, seminars, lectures, workshops for educational and entertainment purposes, meetings in the field of education and entertainment, entertainment activities and events, provision of entertainment in the form of concerts, live performances, television, radio, cinema, films, dramas, live shows, cabarets, theatrical performances, discotheques, exhibitions, fashion shows, festivals, parties, outing entertainment, art events, museums, video entertainment, entertainment services provided online, entertainment publishing services, digital music, music entertainment, provision of entertainment via podcasts, online entertainment. These services are all encompassed by the opponent's terms "*Entertainment services; education services; sporting and cultural activities; online education entertainment services; entertainment services provided via the Internet and other computer and communications networks; entertainment services featuring electronic media, multimedia content, audio and video content, movies, music, games, photos, images, pictures, graphics, text, messages, information, data, news and user-generated content provided via the Internet and other computer and communication networks*" (as covered by the first and second earlier mark). These services are identical on the principle outlined in *Meric*.

Entertainment production services

32. The applied-for services cover a wide range of entertainment production services including video and DVD film production; video production; television and radio production; recording, film, video and television studio services; production of documentaries, films, theatrical shows, audio and visual presentations, cabaret, live shows, video and audio recordings, stage plays, stage shows and television programmes for broadcast on mobile devices. Although the first and second earlier mark do not cover production services at large, they are registered for specific

production services, namely *production of video recordings and sound recordings; production of webcasts; production of podcasts; organising, conducting and production of shows, displays and parties*, which fall within, or include, the applied-for production services (*Meric*). These services are identical. If I am wrong, they are highly similar.

The provision of online content

33. The applied-for services cover the provision of online content, including audio and video content, images, electronic publications, comic books, magazines, reviews, television programmes and online information. In my view, these services fall within the opponent's broad terms "*entertainment services provided via the Internet and other computer and communications networks; entertainment services featuring electronic media, multimedia content, audio and video content, movies, music, games, photos, images, pictures, graphics, text, messages, information, data, news and user-generated content provided via the Internet and other computer and communication networks*" " (as covered by the first and second earlier mark) These services are identical (*Meric*).

34. Alternatively, I agree with Ms Blythe that these services are identical to the opponent's terms "*providing online publications (not downloadable); providing online non-downloadable magazines; interactive information provided online via the Internet and other computer and communication networks relating to education, entertainment, music, films and sports; interactive information provided online via the Internet and other computer and communication networks relating to news and entertainment in the fields of fashion, food, careers, travel, women's health and adventure sports; provision of entertainment information for accessing via communication and computer networks; providing non-downloadable electronic publications*".

Publication services online and in print; publishing services online and in print

35. The applied-for services cover a wide range of publication and publishing services, including publication and publishing of books, magazines, journals, educational material, online reviews, photographs, printed matter, texts, etc. The services are

either self-evidently identical to, or fall within, the opponent's terms *publishing services; publication of magazines, books, texts and printed matter; publishing by electronic means; digital video, audio and multimedia entertainment publishing services; multimedia publishing of magazines, journals and news*" (as covered by the first and second earlier mark). These services are identical (*Meric*).

News programme services

36. The applied-for services cover *News programme services for radio or television; News programming services for transmission across the internet; Photographic reporting*. These are identical to the opponent's *online publication of news and current affairs* (as covered by the first and second earlier mark). Alternatively, I consider that these services might be a type of production service for news programme on radio, TV or the Internet. If I am wrong, they are similar to a low degree, given the applicant's concession about the similarity of the services.

The writing of texts

37. The applied-for services cover various writing services including writing of texts and screenplays and writing services for blogs. Ms Blythe says that these services are identical to the opponent's terms "*entertainment services featuring ... text, messages, information, data, ... via the Internet and other computer and communication networks; presentation of data, messages and documents for entertainment purposes*". I am not persuaded that these services are identical, as the writing of text used for entertainment is separate from the provision of entertainment. Nevertheless, there is a complementary relationship insofar as the writing of texts and the provision of entertainment are closely related, for example, the writing of articles for magazines is important for the provision of magazines, and the writing of texts for blogs is important for the provision of blogs. Further, the services might be provided by the same undertaking sharing distribution channels. In my view, these services are similar to a medium degree.

38. Finally, the applied-for services include *Providing facilities for playing paintball games*. None of these terms fall within the categories listed above. However, given

the applicant's admission that the parties' services in class 41 are identical or similar, I consider them to be similar to at least a low degree.

Average consumer

39. As the case law above indicates, it is necessary for me to determine who the average consumer is for the parties' services. I must then determine the manner in which the 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.”

40. Ms Blythe, on behalf of the opponent, submitted that the average consumer of the services at issue is a member of the general public paying a low level of attention. Her submissions focused, in particular, on online content services as she referred to the average consumer scrolling through their phone and looking for content to watch without much discernment or discrimination.

41. Ms Wise, on behalf of the applicant, stated that the average consumer of the applied-for services is not the public at large, but a niche consumer, namely a member of the LGBTQ+ community, and argued that the applied-for services are delivered in a completely different manner from the opponent's services. In response to these submissions, Ms Blythe argued that although the applied-for services are limited to LGBTQ+ content, that does not mean that the services target only the LGBTQ+ community; rather, the services target anyone with an interest in that community which is a broader public. Further, Ms Blythe pointed out that the opponent's services are

not limited in any way and must be regarded as including services covering the same subject matter as that covered by the applied-for services.

42. I agree with Ms Blythe. It is accepted that services can be defined by their recipient i.e. where a service is targeted at a particular sector (see *Omega Engineering Inc v Omega SA* [2012] EWHC 3440 (Ch) at paragraph 49 referring to earlier reasoning set out in *MERLIN Trade Mark* BL O/043/05 [1997] R.P.C. 871 at paragraph 29 where it was said that a specification limiting the relevant services to those provided to the pharmaceutical biotechnological and bioscientific sectors was permissible). However, contrary to Ms Wise's argument, the proposed limitation "*all the aforesaid relating to the history and culture of the LGBTQ+ community*" does not define the applied-for services by their recipient and cannot be construed as having that effect. The specification merely limits the subject matter to which the services relate, and Ms Blythe is right in saying that anyone can have an interest in the history and culture of the LGBTQ+ community and be a user of the applicant's services without being part of that community. Furthermore, as Ms Blythe correctly observed, the registered specification in class 41 is not limited in any way and notional and fair use of the opponent's marks with the registered specification in class 41 would include providing services relating to the history and culture of the LGBTQ+ community.

43. The average consumer of the services concerned is a member of the general public with an interest in the LGBTQ+ community (or someone purchasing the services for such a person). The selection process is likely to be mainly visual, with the services being selected from marketing material and websites, although I do not discount the possibility of aural recommendations also playing some part.

44. All of the services are likely to attract a medium degree of attention as consumers will consider factors such as the reputation of the provider, and the quality and reliability of the services even in relation to online content; therefore, I reject Ms Blythe's submission that the average consumer will display a lower degree of attention when selecting services consisting of the provision of online content.

Comparison of marks

45. 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.”

46. 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. The respective marks are shown below:

The application	The opponent’s mark
Queer Bible	LAD BIBLE
QUEER BIBLE (series of two)	BIBLE 

47. Before I turn to the overall impression and the comparison of the marks, it is relevant to see what the parties’ submissions are on those matters.

48. The applicant's position is that the marks are neither visually, aurally or conceptually similar. However, Ms Wise inevitably acknowledged the presence of the common element BIBLE when she states at [31] and [32] of her skeleton argument that "*setting aside the common term BIBLE*", there is no visual or aural similarity between the respective marks. Conceptually, Ms Wise argued that "*there is no similarity between the respective marks*" (rather than the marks being conceptually dissimilar) and stated that the first part of the opponent's marks LAD BIBLE, GAMING BIBLE, SPORT BIBLE, TRAVEL BIBLE and CONTENT BIBLE immediately describe the topic of interest, "*all of which are used in combination with the word BIBLE which would be perceived as 'a book regarded as authoritative in a particular sphere'*". As regard the applied-for mark, Ms Wise submitted that the applicant's mark QUEER BIBLE "*could be perceived either as 'strange; odd' or 'denoting or relating to a sexual or gender identity' in combination with 'a book regarded as authoritative in a particular sphere'*".

49. Ms Blythe stated that the marks are similar to a high degree because they share the identical word "BIBLE" which, she submitted, is "*highly distinctive within the online content industry*" and is the key indicator of the opponent's family of marks. Whilst acknowledging that the presence of the word "queer" in the applied-for mark adds a point of difference between the marks, Ms Blythe argued that it would be seen as descriptive of the content provided under the applicant's mark and would be given little distinctive significance. Further, Ms Blythe argued that the word "BIBLE" is presented in the competing marks as the second or last word, so that the marks have a similar look, sound and overall structure and that, although the first elements of the marks have different meanings, they are nouns that could be seen as descriptors of the type of content offered under the marks or of the type of person targeted by that content and, therefore, would be given less distinctive significance in each mark.

Overall impression

The application

50. The application is series of two marks in a word-only format and consists of the words 'Queer' and 'Bible' presented in title case and capital letters, respectively. Since

registration of a word mark protects the words themselves (and covers notional use of the word(s) in any casing or typeface), the marks included in the series are effectively identical and I will refer to them as one. The word 'QUEER' is defined as "*Queer means relating to people whose sexual orientation is not heterosexual or whose gender identity is not traditionally male or female*" (Collins online dictionary). In the context of the services concerned which relate to the history and culture of the LGBTQ+ community, the word 'QUEER' will be seen as descriptive of the content or subject matter of the services.

51. The word 'BIBLE' has two main dictionary definitions (Collins online dictionary) namely "*The Bible is the holy book on which the Jewish and Christian religions are based*" (meaning 1) and "*If someone describes a book about their job or interest as their bible, they mean that it is the best and most useful book about the subject*" (meaning 2) and, in the context of the mark as a whole, it will be perceived as a metaphorical reference to a book accepted as authoritative on the subject matter identified by the preceding word 'QUEER' – this, I note, is also the applicant's position. However, taking into account that meaning 1 will be grasped by the vast majority of the public, and that the relevant services are not in a theological or religious context, even if the word 'BIBLE' may be seen as somewhat allusive in relation to some of the services, for example, those relating to the provision of books online and educational services, it has no direct descriptive meaning with regard to the services.

52. Therefore, in my opinion, whilst the distinctiveness of the mark results from the combination of both words, the word "BIBLE" is more distinctive as its allusive meaning is less direct than that of the word "QUEER" (which is descriptive). In this connection, although I note Ms Wise's submission that "*the beginning of a mark is the most dominant in terms of overall impression*", that is not a rule of law. It is a practical rule of thumb, and it does not automatically follow that the beginning of a mark will always be considered dominant. In the case before me, the fact that the beginning of the mark is descriptive (or very strongly allusive) is something the average consumer will be alive to and, thus, they will not focus on the beginning.

The opponent's marks.

53. I will start by dealing with a preliminary point raised by Ms Wise at the hearing. She argued that since in the Form TM7 the opponent reproduced only the “stylised version” of the second earlier mark ‘BIBLE’ (i.e. the one presented in bold and in title case), the opponent should be prevented from relying on the word-only version of that mark which is part of the same series but was not reproduced in the relevant box where the opponent was required to enter a representation of the mark. Ms Blythe disagreed. At the hearing I observed that what Ms Wise described as “the stylised version” of the second earlier mark is not really stylised, and although Ms Wise argued that the mark is presented in a particular font, it seems to me that the font used is a standard font. Furthermore, along with its Form TM7, the opponent filed copies of the registrations relied upon, including that of the second earlier mark; this clearly shows that the second earlier mark is a series of two marks and any cursory review of the Form TM7 by the applicant would have reveal that. Finally, as I have anticipated at the hearing, even if I were to disregard the word-only version of the mark ‘BIBLE’, that would not improve the applicant’s case. This is because (a) the differences between the two marks in the series are not material and (b) notional use of the applicant’s word-only mark ‘QUEER BIBLE’ covers use in the same font in which the word ‘BIBLE’ is presented in the second earlier mark (that described as the “stylised version” by Ms Wise); consequently, any difference created by that font would be disregarded in a notional comparison of the marks. Accordingly, I dismiss Ms Wise’s argument and I will proceed on the basis that the opponent can rely on the word-only mark BIBLE, upon which I will focus.

The opponent’s BIBLE mark

54. The second earlier mark consists of the word ‘BIBLE’ presented in word-only format. There are no other elements to contribute to the overall impression of the mark, which lies in the word itself.

The opponent’s LAD BIBLE mark

55. The first earlier mark consists of the word ‘LAD’ and ‘BIBLE’ presented in word-only format. The word ‘LAD’ means “*a young man or boy*” and will be seen as descriptive (or strongly allusive) of the content, subject matter or target consumer of

the services. The word 'BIBLE' has the meanings set out above. Whilst the distinctiveness of the mark results from the combination of both words, the word "BIBLE" is more distinctive as its allusive meaning is less direct than that of the word "LAD".

QUEER BIBLE vs LAD BIBLE

56. As it will be recalled, I have found that the element 'BIBLE' in the competing marks is more distinctive than the word that precedes it because the word 'QUEER' in 'QUEER BIBLE' is descriptive, and Ms Wise's herself submitted that the word 'LAD' in 'LAD BIBLE' immediately describes the topic of interest (or the target consumers for the services).

57. Visually, the marks coincide in that they have the same structure, consisting of two words that are juxtaposed and comprise the word 'BIBLE' as their second element. However, they differ in that their first elements, namely the words 'QUEER' and 'LAD' are of different length, being five and three-letters long respectively, and look very different. I find that the respective marks are visually similar to a medium degree.

58. In an aural comparison of the marks, the element 'BIBLE' will be pronounced identically in both marks. However, the pronunciation differs in the first elements of the marks which will be pronounced as 'KWIER' and 'LAAD' respectively. I find that the respective marks are aurally similar to a medium degree.

59. In a conceptual comparison of the marks, both marks will be perceived by the majority of the relevant public as referring to the best and most useful book on a certain topic of interest to the target consumers, namely members of the LGBTQ+ community in the case of the applicant's QUEER BIBLE mark, and men in the case of the opponent's LAD BIBLE mark. In other words, the application will be seen as the bible for queers and the opponent's will be seen as the bible for lads. I consider the marks to be conceptually similar to a medium degree.

QUEER BIBLE vs BIBLE

60. Visually and aurally, the marks coincide in that they both contain the word 'BIBLE'; this represents the only element of the opponent's mark and the second element of the applicant's mark. However, the marks differ in that in the applicant's mark the word 'BIBLE' is preceded by the word 'QUEER' which has no counterpart in the opponent's mark. I find that the respective marks are visually and aurally similar to a medium to high degree.

61. Conceptually, a significant part of the public is likely to associate the opponent's mark 'BIBLE' with meaning 2, while another significant part of the public will associate it with meaning 1. For those consumers who will associate 'BIBLE' alone in the opponent's mark with meaning 2, although the semantic content conveyed by the said element is the same, given the concept of a certain kind of 'bible' conveyed by the applicant's mark QUEER BIBLE, there is a medium degree of conceptual similarity, because in the applicant's mark the particular type of 'bible' is specified whereas in the opponent's mark, it is not.

Distinctive character of earlier mark

62. 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 *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 *Windsurfing Chiemsee*, paragraph 51).”

63. 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.

64. As Ms Blythe noted at the hearing, whilst in their Form TM8 the applicant sought to allege that the combination of WORD + BIBLE is of low distinctiveness due to the use by other traders of the same combination, they only cited 11 registered marks including POD BIBLE, STYLE BIBLE, WISKY BIBLE, STUDENT BIBLE, BASSLINE BIBLE, THE MANC BIBLE, THE ACTION BIBLE, THE BREWERY BIBLE, THE WIEDMANN BIBLE and THE LAST FASHION BIBLE without providing any evidence about whether these marks are in fact used in the market. Ms Wise did not press this argument in her oral submissions, explaining that the same argument had been run in a previous case involving the opponent (BL-O-804-18); in that case the argument was rejected based on the case-law that “*state of the register evidence*” is generally of no assistance.³

65. The services covered by the earlier mark which are relevant for the purpose of this decision are those in class 41. They broadly relate to online publishing, provision of online content and provision of cultural, educational and entertainment services, including the provision of online entertainment. I find the opponent’s mark ‘LAD BIBLE’ to be lower in distinctiveness than the mark ‘BIBLE’ alone because it alludes to the likely content or target audience of such services; the mark as whole, as I have said, will convey the message that the relevant services provide the target consumer with

³ *Zero Industry Srl v OHIM*, Case T-400/06.

what they need to know about lads, or provides entertainment and educational services of interest to lads. I find that the opponent's mark 'LAD BIBLE' is distinctive to a less than medium degree, i.e. between low and medium.

66. As regards the opponent's mark 'BIBLE' alone, even if part of the public may perceive it as meaning the "*most useful book on a certain topic of interest to the target consumers*", the allusion is one mental step away from the relevant services as there is no reference to the content/subject matter of some of the services in question. I therefore consider the earlier mark 'BIBLE' to be distinctive to a medium degree.

67. The opponent claimed that the earlier trade marks enjoy enhanced distinctiveness and filed evidence to support such claim. Before I turn to the evidence filed, I shall refer to a number of concessions made at the hearing because the extent to which I need to comment on the evidence will depend on the concessions made.

68. In her skeleton argument, Ms Wise stated that the applicant admit that the opponent has a reputation in relation to services relating to online news and entertainment services but deny that the opponent has a reputation in relation to the remaining goods and services. Further, Ms Wise denied that the opponent has a reputation under the second earlier mark BIBLE and the fifth earlier mark TRAVEL BIBLE and said that the opponent does not have a reputation for services which are in respect of the LGBTQ+ community. As regard to goodwill, Ms Wise accepted, on behalf of the applicant, that the opponent has goodwill in the signs relied upon with the exception of LENS BIBLE, SCIENCE BIBLE, FACTS BIBLE and BIBLE. Hence, based on those concessions, I will proceed on the basis that the applicant have made the following admissions:

- at the filing date of the contested application, the opponent had acquired a reputation in the UK for online news and entertainment services under the marks LAD BIBLE, The GAMING Bible, The SPORT Bible, CONTENT BIBLE;
- at the filing date of the contested application, the opponent had acquired goodwill in the UK for online news and entertainment services under the signs

LAD BIBLE, SPORT BIBLE, FOOD BIBLE, ODDS BIBLE, GAMING BIBLE and CONTENT BIBLE.

69. Ms Blythe argued that those admissions effectively relate to admission of enhanced distinctiveness as well, given that the test to be applied and the evidence relevant to the assessment are the same for enhanced distinctiveness and reputation. She also observed that whilst the admissions do not go any further than online news and entertainment services, they cover the core of what the opponent does, including the list of services for which the opponent claims goodwill, since online news and entertainment incorporates things like publication of online news, electronic publications, podcasting, webcasting, entertainment services online and multimedia publishing online. Further, Ms Blythe submitted that 'LAD BIBLE' is the opponent's house brand and the strongest mark in terms of evidence of enhanced distinctiveness. Finally, Ms Blythe provided a copy of BL-O-804-18 (cited above) in which the Hearing Officer upheld an opposition brought by the opponent against a third-party's application for a figurative mark incorporating the words THE UNIBIBLE and found that the distinctiveness of the opponent's earlier mark 'The Lad Bible' had been enhanced through use, making the mark highly distinctive for publication of news, information and entertainment.

70. Ms Wise replied that if any enhanced distinctiveness is found, it is only in relation to the provision of online content, news and entertainment services, and asked me to decide whether the concessions about reputation of some of the earlier marks amount to enhanced distinctiveness.

71. Admittedly, the nature, factors, evidence and assessment of enhanced distinctiveness are the same as for reputation. For the purpose of deciding whether any of the earlier marks relied upon by the opponent have acquired an enhanced degree of distinctiveness, I am only concerned with two earlier marks, namely 'BIBLE' and 'LAD BIBLE'; this is because these marks have been identified by the opponent as its strongest cases under the Section 5(2)(b) ground. Insofar as the mark 'BIBLE' is concerned, Ms Wise denied the existence of any reputation or goodwill in that mark. As regard the mark 'LAD BIBLE', I accept that the applicant's concession about reputation and goodwill means that the distinctiveness of the mark must have been

enhanced to some extent; whether it is material or not, depends on the evidence. Further, although the previous decision BL-O-804-18 is not binding upon me, it has some persuasive value; however, it relates to a slightly different mark, namely 'THE LAD BIBLE', rather than 'LAB BIBLE'. Hence, I will refer to the most relevant evidence to see whether it supports the finding that the distinctiveness of the mark 'LAD BIBLE' has also been enhanced to a high degree. Although I have reviewed the evidence in full, I note the following (some of the points below being those upon which Ms Blythe focused during the hearing):

- The opponent is a **UK company** with headquarters in Manchester and offices in London, Dublin, Sydney, Melbourne, Auckland and New York. It was founded in 2012 and is an online media publisher of news and entertainment, consisting of a diverse range of original and user-generated content. Its services focus on viral content, editorial content, videos and live streaming across various online platforms including the opponent's own websites and social media.
- Since its incorporation, the opponent has grown to become one of the UK most prominent social digital content publishers aimed at young adults. The opponent's content reaches an estimated **2/3 of 18-34-year-olds in the UK** and **over half of all UK adults**.⁴
- The opponent operates across the major social publishers, including Facebook, TikTok, Snapchat, Instagram and YouTube.
- In **May 2021**, according to data sourced from Facebook Analytics, the opponent's **global audience was 264 million**, with **29 million unique users in the UK** at that date. A user is defined as someone who views and/or interacts with the opponent's content and includes people who 'follow' the opponent's accounts.
- **May 2022** statistics show **246 million specific followers worldwide across the major social media platforms**; the opponent's five websites, namely

⁴ Exhibit BE2-BE3

LADbible, UNILAD, Tyla, SPORTbible and GAMINGbible, attract almost **51 million monthly users**. These monthly stats fluctuate from month to month but remain consistently at these high levels;

- Copy of the opponent's LinkedIn page dated June 2022 states that Lad Bible Group "*has grown to become the **biggest social publisher in the world**. Reaching an audience of **over 584 million every month**, in October it recorded over 140 million engagements on Facebook and Instagram and an incredible 1.6 billion across 2020 as a whole*".⁵
- An extract from Statista dated November 2022 states that Lad Bible was ranked first among the most watched Facebook video publishers with 1.6 billion video views in March 2019;
- The opponent's estimated **UK turnover** was over **£15 million** in 2017, growing to **£20million** in 2018, **£28million** in 2019 and 2020 and over **£46 million in 2021** for a total of **£137million**, a proportion of which comes from the provision of advertising on Lad Bible Group's websites and social media.
- Although no specific turnover figures are provided in relation to services supplied under the brand 'LAD BIBLE', the opponent is called "Lad Bible Group Limited" and it is said that '**LAD BIBLE' is the opponent's original and main brand and house mark**. In this connection, an article from cityam.com, a UK financial and business newspaper, dated December 2021 talks about the opponent's group of companies' debut on the stock market referring to the group as 'Lad Bible'. It states: "*Digital youth publisher LBG Media, also known as LadBible*" and "*LadBible has raised gross proceeds worth £30m for the company [...]*" and "*LadBible's debut also contrasts with BuzzFeed's underwhelming entrance to Wall Street earlier this month*";⁶

⁵ BE3

⁶ BE3

- The brand was originally called “The lad bible”, but since 2017 the article ‘The’ has been removed and the website www.theladbible.com now redirects to www.ladbible.com. The ‘LAD BIBLE’ name and logo generally appear in or on all the original videos curated by the opponent.
- An extract taken from the YouGov.co.uk website, a global public opinion and data company, shows how YouGov’s ratings measure LAD BIBLE’s popularity and fame on 31 October 2022. The latest data based on 1221 nationally representative interviews of the GB population, collected during Q3 2022 shows that **67% of people asked had heard of Lad Bible.**⁷
- An online article from BBC News dated 5 February 2015 and titled “*How did The Lad Bible become so successful*” states “*web analytics site Alexa reports that Lad Bible is the 12th most popular website in the UK, above established resources such as LinkedIn, PayPal and The Guardian*”. An online article from PressGazette.co.uk dated August 2016 states that “*Lad Bible ranks as Europe’s most watched for video content*” whilst another article from the same website dated November 2022 lists Lad Bible in the Top 50 news brand in the UK at nos. 23 in terms of audience and 15 in terms of engagement.⁸
- The opponent does not advertise in traditional ways; its content spreads through viewing/sharing. However, the opponent has spent over **£500,000** on advertising every year since 2017, amounting to a total of over **£5.7 million** between 2013 and 2022 (see below):

YEAR	UK EXPENDITURE (£)
2022 HY	£1,037,000
2021	£1,027,000
2020	£506,000
2019	£834,000
2018	£615,000
2017	£503,000
Aug 2016-Dec 2016 (5m)	£285,672
Aug 2015-July 2016 (12m)	£685,614
Aug 2014-July 2015 (12m)	£181,343
Aug 2013-July 2014 (12m)	£41,109

⁷ BE6

⁸ BE7

- The website **ladbible.com** has had over **70 million UK-based visitors every year between 2015 and 2021** for a total of **416million** between 2015 and 2019.⁹
- The **LAD BIBLE social media accounts have a huge worldwide following, with approximately 30% coming from the UK;**
- The **LAD BIBLE content has billions of views**, with many high-profile campaigns having millions of views individually.

72. The relevant date for the assessment is the filing date of the contested application, namely 29 October 2019.

73. Admittedly, the significant UK turnover figures amounting to £63million in the period 2017-2019, appear to be cumulative and include revenue generated under other sub-brands, for example, the evidence shows that the opponent operates through five websites, four of which uses brands other than 'LAD BIBLE' (UNILAD, Tyla, SPORTbible and GAMINGbible). However, the documents produced consistently shows that the opponent's main brand is 'LAD BIBLE' and that 'LAD BIBLE' is used as part of the opponent's trading name, within the website www.ladbible.com and on the online content produced and distributed by the opponent. Further, the article and stats exhibited in evidence indicate that the opponent is synonymous with 'LAD BIBLE' and is identified with that name by third parties and in news articles. Consequently, it seems reasonable to me to conclude that a significant proportion of the opponent's content that reached an estimated 2/3 of 18-34-year-olds in the UK and over half of all UK adults has been provided under the brand 'LAD BIBLE'. This conclusion is corroborated by other evidence, for example, (a) the article reporting that in 2015 (4 years prior to the relevant date) that 'Lad Bible' was the 12th most popular website in the UK, above established resources such as LinkedIn, PayPal and The Guardian, (b) the survey from YouGov showing that in 2022 (three years after the relevant date) 67% of the people asked had heard

⁹ BE12

of Lad Bible in the UK and (c) the evidence that the website ladbible.com has had over 70 million UK-based visitors every year between 2015 and 2021 for a total of 416 million between 2015 and 2019; this is an astonishing number when one considers that the UK population stands at around 66 million.

74. In my view, even in the absence of the applicant's concessions about goodwill and reputation, it is clear that the opponent has used the mark 'LAD BIBLE' in the UK to such an extent that it has acquired a high degree of distinctiveness, at least among the younger generation of consumers (i.e. persons from 18 to 34 years old) for the provision of online news and online content.

75. There is no evidence of use of the mark 'BIBLE' alone, and Ms Blythe restricted the claim of enhanced distinctiveness to LAD BIBLE, THE GAMING BIBLE, THE SPORT BIBLE and CONTENT BIBLE. Consequently, I reject the claim that the distinctiveness of the mark 'BIBLE' has been enhanced through use.

Likelihood of confusion

76. 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.

77. 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).”

78. 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.”

79. It is not sufficient that a mark merely calls to mind another mark: *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17. This is mere association not indirect confusion.

80. Earlier in this decision I found that:

- With the exception of a few terms, which are similar to at least a low degree, the vast majority of the parties’ services in class 41 are identical (or highly similar).
- The average consumer of the applied-for services in class 41 is a member of the general public with an interest in the LGBTQ+ community. The average consumer of the opponent’s unlimited services in class 41 is either a member of the general public (for the services that are not related the history and culture of the LGBTQ+ community) or a member of the general public with an interest in the LGBTQ+ community (for the services that are related the history and culture of the LGBTQ+ community). Regardless of whether the specification of the opponent’s earlier marks is considered as notionally covering services relating to the history and culture of the LGBTQ+ community or not, it does not alter my finding that the services are identical since the limitation “*all the aforesaid relating to the history and culture of the LGBTQ+ community*” refer to a characteristic that may be present or absent without changing the nature, function or purpose of the specified services.

- The selection process is likely to be mainly visual, although I do not discount the possibility of aural recommendations also playing some part. The services will be selected with a medium degree of attention.
- The applicant's 'QUEER BIBLE' and the opponent's 'LAD BIBLE' marks are visually, aurally and conceptually similar to a medium degree.
- The applicant's 'QUEER BIBLE' and the opponent's 'BIBLE' marks are visually and aurally similar to a medium to high degree, and conceptually similar to a medium degree.
- The opponent's mark 'LAD BIBLE' is inherently distinctive to a less than medium degree, i.e. between low and medium, but its distinctiveness has been enhanced to a high degree through use.
- The opponent's mark 'BIBLE' is inherently distinctive to a medium degree but does not benefit from enhanced distinctiveness.

Family of marks

81. In *Il Ponte Finanziaria SpA v OHIM*, Case C-234/06, the CJEU stated that:

“62. While it is true that, in the case of opposition to an application for registration of a Community trade mark based on the existence of only one earlier trade mark that is not yet subject to an obligation of use, the assessment of the likelihood of confusion is to be carried by comparing the two marks as they were registered, the same does not apply where the opposition is based on the existence of several trademarks possessing common characteristics which make it possible for them to be regarded as part of a ‘family’ or ‘series’ of marks.

63. The risk that the public might believe that the goods or services in question come from the same undertaking or, as the case may be, from economically-

linked undertakings, constitutes a likelihood of confusion within the meaning of Article 8(1)(b) of Regulation No 40/94 (see *Alcon v OHIM*, paragraph 55, and, to that effect, *Canon*, paragraph 29). Where there is a ‘family’ or ‘series’ of trade marks, the likelihood of confusion results more specifically from the possibility that the consumer may be mistaken as to the provenance or origin of goods or services covered by the trade mark applied for or considers erroneously that that trade mark is part of that family or series of marks.

64 As the Advocate General stated at paragraph 101 of her Opinion, no consumer can be expected, in the absence of use of a sufficient number of trade marks capable of constituting a family or a series, to detect a common element in such a family or series and/or to associate with that family or series another trade mark containing the same common element. Accordingly, in order for there to be a likelihood that the public may be mistaken as to whether the trade mark applied for belongs to a ‘family’ or ‘series’, the earlier trade marks which are part of that ‘family’ or ‘series’ must be present on the market.

65 Thus, contrary to what the appellant maintains, the Court of First Instance did not require proof of use as such of the earlier trade marks but only of use of a sufficient number of them as to be capable of constituting a family or series of trade marks and therefore of demonstrating that such a family or series exists for the purposes of the assessment of the likelihood of confusion.

66 It follows that, having found that there was no such use, the Court of First Instance was properly able to conclude that the Board of Appeal was entitled to disregard the arguments by which the appellant claimed the protection that could be due to ‘marks in a series’.”

82. Ms Blythe correctly pointed out in her oral submissions that there are two conditions that have to be satisfied for the family of marks argument to be relevant.¹⁰ The first is that the proprietor of a series of marks relying upon this argument has to show that it has used a number of marks capable of constituting a ‘series’. The second

¹⁰ These were set out in *Il Ponte Finanziaria v OHMI - Marine Enterprise Projects (BAINBRIDGE)*, Case T-194/03 by the GC

is that the applied-for mark must not only be similar to the marks belonging to the series, but also display characteristics capable of associating it with the series. This is because for the trade marks forming part of the series to enjoy greater protection than each individual mark, the purchasing public must recognize that the shared characteristic indicates common origin. As the GC clarified in *BAINBRIDGE*, that could not be the case where, for example, *“the element common to the earlier serial marks is used in the trade mark applied for either in a different position from that in which it usually appears in the marks belonging to the series or with a different semantic content.”*

83. Since the concept of a family of marks relate to a group of registered marks, the only admission that is relevant for the purpose of establishing the existence of a “family of marks” is that relating to the reputation of the opponent’s registered trade marks ‘LAD BIBLE’, ‘The GAMING Bible’, ‘The SPORT Bible’ and ‘CONTENT BIBLE’, the admission about goodwill in unregistered signs being irrelevant here. As it will be recalled, the applicant has conceded that at the filing date of the contested application, the opponent had acquired a reputation in the UK for online news and entertainment services under these four marks. As the applicant has conceded reputation, it must also be regarded as having conceded use. Further, I consider that four is a sufficient number of trade marks capable of constituting a family of marks or series. In addition to this, I find as a result of the use by the opponent of the suffix -BIBLE in conjunction with a noun, or an article and a noun, describing the subject matter or target public of the relevant online news and entertainment services, such as ‘LAD BIBLE’, ‘The GAMING Bible’, ‘The SPORT Bible’ and ‘CONTENT BIBLE’, the opponent is recognized to have a family of marks combining the common and distinctive element ‘BIBLE’ with a generic noun (or an article and a generic noun).

84. The opponent relies specifically upon indirect confusion, in that the average consumer may see the applicant’s ‘QUEER BIBLE’ mark and believe that there is a commercial connection between the applicant’s services and the opponent, for example, Ms Blythe argued that the average consumer may believe that ‘QUEER BIBLE’ is a licensed partner of the opponent or a new sub-brand within its ‘-BIBLE’ family of brands targeted at the ever-growing LGBTQ+ market.

85. In this connection, Ms Blythe referred to the evidence of Lindsay Turner showing that the opponent already releases content directed at the LGBTQ+ community and supplied examples of LGBTQ+ content published by the opponent. I do not need to summarise this evidence any further, aside from saying that as it was observed by Ms Turner in her witness statement and by Ms Blythe at the hearing, the opponent's provision of LGBTQ+ content is unsurprising for a brand that focuses on the youth generation and in view of the fact that 16-24 years old are twice as likely to identify themselves as queer, a data which is said to have been sourced from the 2021 census results published by the Office for National Statistics.¹¹

86. In my view, taking all of the above into account, in particular:

- a) the high degree of distinctiveness of the brand LAD BIBLE;
- b) the identity of the vast majority of the services concerned;
- c) the existence of a '-BIBLE' based family of marks, and
- d) the fact that the applied-for mark 'QUEER BIBLE' is similar to all of the individual marks comprising the opponent's 'BIBLE' family of marks, in that the element common to the opponent's serial marks is used in the applicant's mark in the same position as that in which it usually appears in the opponent's marks belonging to the series and with a very similar semantic content, i.e. as a reference to a book regarded as authoritative in a particular sphere preceded by a word that immediately describe the topic of interest

I consider that the public will be confused into thinking that the marks of the application are those that sit within the opponent's family of marks, for example, a brand identifying services that cover LGBTQ+ content. The fact that the beginnings of the marks are different does not prevent a finding of similarity in this case, and more generally, the fact that the common element is placed at the end of marks has been recognised as being sufficient to create a likelihood of confusion- see for example *Bristol Global Co*

¹¹ Lindsay Turner's witness statement

Ltd v EUIPO, T-194/14, in which the GC held that there was a likelihood of confusion between AEROSTONE (slightly stylised) and STONE if both marks were used by different undertakings in relation to identical goods (land vehicles and automobile tyres) despite the fact that the beginnings of the marks were different.

87. There is a likelihood of indirect confusion even in relation to the services which I found to be similar to a lesser degree.

Honest concurrent use

88. The opponent having established that there is a likelihood of confusion, I turn now to consider the opponent's defence of honest concurrent use.

89. In *Aceites del Sur-Coosur SA v OHIM*, Case C-498/07 P, the CJEU found that:

"82. First, although the possibility cannot be ruled out that the coexistence of two marks on a particular market might, together with other elements, contribute to diminishing the likelihood of confusion between those marks on the part of the relevant public, certain conditions must be met. Thus, as the Advocate General suggests at points 28 and 29 of his Opinion, the absence of a likelihood of confusion may, in particular, be inferred from the 'peaceful' nature of the coexistence of the marks at issue on the market concerned.

83. It is apparent from the file, however, that in this case the coexistence of the La Española and Carbonell marks has by no means been 'peaceful' and the matter of the similarity of those marks has been at issue between the two undertakings concerned before the national courts for a number of years."

90. In *Budejovicky Budvar NP v Anheuser-Busch Inc*, Case C-482/09, EU:C:2011:605, the CJEU held that:

"74. In that context, it follows from the foregoing that Article 4(1)(a) of Directive 89/104 must be interpreted as meaning that a later registered trade mark is liable

to be declared invalid where it is identical with an earlier trade mark, where the goods for which the trade mark was registered are identical with those for which the earlier trade mark is protected and where the use of the later trade mark has or is liable to have an adverse effect on the essential function of the trade mark which is to guarantee to consumers the origin of the goods.

75. In the present case, it is to be noted that the use by Budvar of the Budweiser trade mark in the United Kingdom neither has nor is liable to have an adverse effect on the essential function of the Budweiser trade mark owned by Anheuser-Busch.

76. In that regard, it should be stressed that the circumstances which gave rise to the dispute in the main proceedings are exceptional.

77. First, the referring court states that Anheuser-Busch and Budvar have each been marketing their beers in the United Kingdom under the word sign 'Budweiser' or under a trade mark including that sign for almost 30 years prior to the registration of the marks concerned.

78. Second, Anheuser-Busch and Budvar were authorised to register jointly and concurrently their Budweiser trade marks following a judgment delivered by the Court of Appeal (England & Wales) (Civil Division) in February 2000.

79. Third, the order for reference also states that, while Anheuser-Busch submitted an application for registration of the word 'Budweiser' as a trade mark in the United Kingdom earlier than Budvar, both of those companies have from the beginning used their Budweiser trade marks in good faith.

80. Fourth, as was stated in paragraph 10 of this judgment, the referring court found that, although the names are identical, United Kingdom consumers are well aware of the difference between the beers of Budvar and those of Anheuser-Busch, since their tastes, prices and get-ups have always been different.

81. Fifth, it follows from the coexistence of those two trade marks on the United Kingdom market that, even though the trade marks were identical, the beers of Anheuser-Busch and Budvar were clearly identifiable as being produced by different companies.

82. Consequently, as correctly stated by the Commission in its written observations, Article 4(1)(a) of Directive 89/104 must be interpreted as meaning that, in circumstances such as those of the main proceedings, a long period of honest concurrent use of two identical trade marks designating identical products neither has nor is liable to have an adverse effect on the essential function of the trade mark which is to guarantee to consumers the origin of the goods or services.”

91. See also: *Budejovicky Budvar NP v Anheuser-Busch Inc*, [2012] EWCA Civ 880.

92. The requirement for honest concurrent use excludes cases where the defendant clearly intended from the outset to cause confusion or has subsequently acted in such a way so as to exacerbate the level of confusion.

93. In *Match Group, LLC & Ors v Muzmatch Ltd & Anor* [2023] EWCA Civ 454 at [115] to [117], Arnold LJ held that honest concurrent use is not a separate defence in a trade mark case, but a factor which can be taken into account in deciding whether use of the later mark will affect the functions of the earlier mark. A use which was initially infringing could eventually cease to be infringing if the trade mark proprietor took no action, there was substantial parallel trade for a long period, and as a result the trade marks came to be understood by the relevant class of consumers as denoting the goods/services of more than one trader. In that scenario there would no longer be a likelihood of confusion.

94. Arnold LJ said that once the claimant has established a *prima facie* case of infringement, the burden shifts to the defendant to establish that, by virtue of its honest concurrent use, there is no longer an adverse effect on any of the functions of the earlier trade mark.

95. The *Budweiser* case shows that honest concurrent use may also be relevant in trade mark opposition and cancellation proceedings. Consequently, the above guidance also applies to proceedings of this kind.

96. At the hearing Ms Blythe said that the relevant date for assessing the issue of honest concurrent use is the application date of the contested mark, in this case 29 October 2019. Ms Wise disagreed stating that the relevant date for assessing honest concurrent use is the date when use of the sign complained of commenced which, she confirmed, would be at least December 2017. I am not convinced that Ms Wise’s submission is correct, but in any event, given that the longer the period of peaceful co-existence of the same or closely similar names on the market, the stronger the argument that the inevitable confusion that arises may have to be tolerated, I do not think that assessing honest concurrent use at an earlier date than the filing date of the applicant can assist the applicant’s case.

97. As it will be recalled, the applicant filed evidence of use with their Form TM8. That evidence shows that the applicant purchased the domain name www.queerbible.com in December 2015. Although the webpage showed a “coming soon” page in October 2016, the first content was not available until December 2017. The only evidence of this first use in December 2017 is copy of a webpage displaying the mark ‘the queer bible’ and inviting the user to click on the text “enter” but there is no evidence that the website was fully working at that date:



98. The applicant states that since its official go-live date from 1 December 2017 until 21 January 2020, traffic to their website bearing the mark 'QUEER BIBLE' demonstrated that there had been 51,800 unique visitors, 48,100 visits and 92,700 page views and that 42.6% of the total visits made to the website were from users in the UK. They also state that at the time of the witness statement 875 people had subscribed to the applicant's newsletter. As correctly observed by Ms Blythe, this information does not establish what proportion of the UK visits or subscription occurred prior to the relevant date of 29 October 2019, and it is of very limited assistance in determining the extent of any use made prior to that date. Likewise, whilst I note the applicant's statements that the 'queer bible' social media pages have been in use since March 2016 and have 1,500 followers (Twitter), 24,100 followers (Instagram) and 1,100 followers, this information appears to refer to the number of followers the applicant's social media pages had at the date of the witness statement, rather than at the relevant date. Equally, the evidence that the applied-for mark has been used in respect of a podcast which was first released in July 2020 and a book published in 2021 suffers from the same defects, as it does not assist in establishing concurrent use prior to the relevant date.

99. Other evidence relates to a number of events and partnership, including:

- (a) The applicant being named one of Levi Jeans Pride Ambassador (July 2018) and participating to a panel discussion which it is said was attended by over 100 people in the UK and was also posted on Levi's Instagram account.
- (b) Partnerships with The Edition Hotel London in July 2018 where QUEER BIBLE was invited to create an art installation celebrating Pride which decorated the hotel's glass entrance vestibule. The applicant says that a launch party was held which was attended by numerous celebrities and was featured in London's Evening Standard newspaper, which has a circulation of 852,000 and a readership of 1,200,000.
- (c) Partnerships with the British Film Institute in March 2019 to create an education day for its Future Film programme which sought to empower and inspire young filmmakers. The applicant says that their programme included screenings of

short films, workshops, networking and panel discussions with a particular focus on queer cinema and that the event took place at Rich Mix Cinema in Shoreditch and was attended by young people across the UK. Promotion of the event was made via the British Film Institute's Instagram page which has over 284,000 followers. The event was also picked up by Jim Chapman, a model, and reposted on his Twitter page which had over 2,200,000 followers at the time of the event.

(d) Partnerships with national magazine British GQ for their GQ Heroes conference where Queer Bible hosted a panel discussion to discuss topics around fashion in May 2019. The applicant says that the talk was attended by numerous press outlets, celebrities, and members of the fashion industry (no one specific is mentioned) and that a film of the talk was subsequently posted (no precise date is given) to British GQ's YouTube channel which has been viewed over 4,000 times, GQ's Twitter account which has over 329,000 followers, and the applicant's own Instagram page which has over 66,500 followers.

(e) Supper clubs under the branding QUEER BIBLE held in London, although no further information is provided about the number of attendees prior to the relevant date.

100. As Ms Blythe pointed out it is entirely unclear how the brand QUEER BIBLE featured at these events and the evidence leaves the possibility that, at least for most of them (i.e. a to d) it was Jack Guinness as a personality that was the relevant 'brand' at the event rather than QUEER BIBLE. Finally, whilst there is some evidence of UK press articles advertising the launch of the applicant's website in 2017 and publishing interviews with the applicant themselves, that is not use by the applicant of the mark QUEER BIBLE in relation to any of the relevant services.

101. For all of the above reasons, I agree with Ms Blythe that the applicant's evidence of concurrent use is severely lacking because the evidence of trade under the mark 'QUEER BIBLE' is very limited and unclear and does not support the conclusion that consumers have learnt that the relevant marks denote two different origins. The applicant's attempted reliance upon the doctrine of honest concurrent use fails.

102. As I have rejected the applicant's defence of honest concurrent use, the opposition under Section 5(2)(b) succeeds in its entirety.

Section 5(3)

103. Section 5(3) of the Act states:

“5(3) A trade mark which –

is identical with or similar to an earlier trade mark, shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the United Kingdom (or, in the case of a European Union trade mark or international trade mark (EC), in the European Union) and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier trade mark.”

64. The relevant case law can be found in the following judgments of the CJEU: *Case C-375/97, General Motors, Case 252/07, Intel, Case C-408/01, Adidas-Salomon, Case C-487/07, L'Oreal v Bellure, Case C-323/09, Marks and Spencer v Interflora, Case C383/12P, Environmental Manufacturing LLP v OHIM*. The law appears to be as follows:

a) The reputation of a trade mark must be established in relation to the relevant section of the public as regards the goods or services for which the mark is registered; *General Motors, paragraph 24*.

(b) The trade mark for which protection is sought must be known by a significant part of that relevant public; *General Motors, paragraph 26*.

(c) It is necessary for the public when confronted with the later mark to make a link with the earlier reputed mark, which is the case where the public calls the earlier mark to mind; *Adidas Salomon, paragraph 29 and Intel, paragraph 63*.

(d) Whether such a link exists must be assessed globally taking account of all relevant factors, including the degree of similarity between the respective marks and between the goods/services, the extent of the overlap between the relevant consumers for those goods/services, and the strength of the earlier mark's reputation and distinctiveness; *Intel, paragraph 42*

(e) Where a link is established, the owner of the earlier mark must also establish the existence of one or more of the types of injury set out in the section, or there is a serious likelihood that such an injury will occur in the future; *Intel, paragraph 68*; whether this is the case must also be assessed globally, taking account of all relevant factors; *Intel, paragraph 79*.

(f) Detriment to the distinctive character of the earlier mark occurs when the mark's ability to identify the goods/services for which it is registered is weakened as a result of the use of the later mark, and requires evidence of a change in the economic behaviour of the average consumer of the goods/services for which the earlier mark is registered, or a serious risk that this will happen in future; *Intel, paragraphs 76 and 77* and *Environmental Manufacturing, paragraph 34*.

(g) The more unique the earlier mark appears, the greater the likelihood that the use of a later identical or similar mark will be detrimental to its distinctive character; *Intel, paragraph 74*.

(h) Detriment to the reputation of the earlier mark is caused when goods or services for which the later mark is used may be perceived by the public in such a way that the power of attraction of the earlier mark is reduced, and occurs particularly where the goods or services offered under the later mark have a characteristic or quality which is liable to have a negative impact of the earlier mark; *L'Oreal v Bellure NV, paragraph 40*.

(i) The advantage arising from the use by a third party of a sign similar to a mark with a reputation is an unfair advantage where it seeks to ride on the coat-tails of the senior mark in order to benefit from the power of attraction, the reputation

and the prestige of that mark and to exploit, without paying any financial compensation, the marketing effort expended by the holder of the mark in order to create and maintain the mark's image. This covers, in particular, cases where, by reason of a transfer of the image of the mark or of the characteristics which it projects to the goods identified by the identical or similar sign, there is clear exploitation on the coat-tails of the mark with a reputation (*Marks and Spencer v Interflora*, paragraph 74 and the court's answer to question 1 in *L'Oreal v Bellure*).

104. The conditions of Section 5(3) are cumulative. Firstly, the opponent must show that the marks are similar. Secondly, the opponent must show that its mark has achieved a level of knowledge/reputation amongst a significant part of the public. Thirdly, it must be established that the level of reputation and the similarities between the parties' marks will cause the public to make a link between them, in the sense of the earlier marks being brought to mind by the applicant's mark. Finally, assuming the first three conditions have been met, Section 5(3) requires that one or more of the types of damage will occur. It is unnecessary for the purposes of Section 5(3) that the services be similar, although the relative distance between them is one of the factors which must be assessed in deciding whether the public will make a link between the marks.

105. I can address this ground very briefly. Ms Blythe's submissions on this ground overlap with the question of likelihood of confusion, as the rationale behind the claim of extended protection due to reputation is that the marks are confusingly similar. Consequently, the opponent cannot achieve a better outcome under Section 5(3) than that achieved under Section 5(2)(b).

Section 5(4)(a)

106. Section 5(4)(a) of the Act reads as follows:

“(4) A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented-

(a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, where the condition in subsection (4A) is met,

(aa)

(b)

A person thus entitled to prevent the use of a trade mark is referred to in this Act as the proprietor of an “earlier right” in relation to the trade mark.”

107. Subsection (4A) of Section 5 states:

“(4A) The condition mentioned in subsection (4)(a) is that the rights to the unregistered trade mark or other sign were acquired prior to the date of application for registration of the trade mark or date of the priority claimed for that application.”

108. In *Comic Enterprises Ltd v Twentieth Century Fox Film Corporation* [2016] EWCA Civ 41, Kitchin LJ considered the role of the average consumer in the assessment of a likelihood of confusion. Kitchen L.J. concluded:

“... if, having regard to the perceptions and expectations of the average consumer, the court concludes that a significant proportion of the relevant public is likely to be confused such as to warrant the intervention of the court then it may properly find infringement.”

109. Although this was an infringement case, the principles apply equally under Section 5(2): see *Soulcycle Inc v Matalan Ltd*, [2017] EWHC 496 (Ch). In *Marks and Spencer PLC v Interflora*, [2012] EWCA (Civ) 1501, Lewison L.J. had previously cast doubt on whether the test for misrepresentation for passing off purposes came to the same thing as the test for a likelihood of confusion under trade mark law. He pointed out that it is sufficient for passing off purposes that “a substantial number” of the relevant public are deceived, which might not mean that the average consumer is

confused. However, in the light of the Court of Appeal's later judgment in *Comic Enterprises*, it seems doubtful whether the difference between the legal tests will (all other factors being equal) produce different outcomes. This is because they are both normative tests intended to exclude the particularly careless or careful, rather than quantitative assessments.

110. Under this ground Ms Blythe relied on the submissions made in relation to Section 5(2)(b). Since the applicant has conceded goodwill in the mark LAD BIBLE as well as in relation to other marks belonging to the same family of marks, for services identical to those in relation to which I have found that the distinctiveness of the mark LAD BIBLE has been enhanced to a high degree, my conclusion under this ground are similar to those I have reached in relation to the Section 5(2)(b) ground, i.e. that there will be misrepresentation and damage.

CONCLUSION

111. The opposition has succeeded in its entirety. Subject to any successful appeal against my decision, the application will be refused registration.

COSTS

112. 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 £2,300, calculated as follows:

Preparing a notice of opposition:	£300
Filing evidence and reviewing the other party's evidence:	£1,000
Preparing for and attending a hearing:	£800
Official fees:	£200
Total:	£2,300

113. I therefore order Jack Guinness to pay The Ladbible Group Limited the sum of £2,300. 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 23rd day of September 2024

TERESA PERKS

For the Registrar

Annex 1

UK00003440072 ("the applicant's mark")

Queer Bible

QUEER BIBLE

Goods and services

Class 41: *Arranging and conducting of cultural activities; Arranging and conducting of displays for training purposes; Arranging and conducting of educational courses; Arranging and conducting of educational events; Arranging and conducting of educational events for charitable purposes; Arranging and conducting of educational seminars; Arranging and conducting of entertainment activities; Arranging and conducting of entertainment events; Arranging and conducting of in-person educational forums; Arranging and conducting of lectures; Arranging and conducting of lectures for educational purposes; Arranging and conducting of lectures for training purposes; Arranging and conducting of live entertainment events; Arranging and conducting of live entertainment events for charitable purposes; Arranging and conducting of meetings in the field of education; Arranging and conducting of meetings in the field of entertainment; Arranging and conducting of music concerts; Arranging and conducting of seminars; Arranging and conducting of seminars and workshops; Arranging and conducting of workshops; Arranging and conducting of workshops and seminars; Arranging and conducting seminars; Arranging and conducting workshops; Arranging and presenting of live performances; Workshops (Arranging and conducting of -) [training]; Workshops for cultural purposes; Workshops for educational purposes; Writing of texts; Writing of texts [other than publicity texts]; Writing of texts, other than publicity texts; Writing of texts, other than publicity texts, for broadcast via teletext services; Writing screenplays; Writing services for blogs; Video and DVD film production; Video editing; Video entertainment services; Video film production; Video production; Video production services; Video taping; Videotape production; Television and radio entertainment; Television and radio entertainment services; Television and radio programme preparation and production; Television and radio programming [scheduling]; Television entertainment; Television entertainment services; Television production;*

Television program production; Television programme production; Television, radio and film production; Television show production; Texts (Publication of -), other than publicity texts; Texts (Writing of -), other than publicity texts; Theatre productions; Theatrical performances; Theatrical performances both animated and live action; Theatrical performances, music performances; Theatrical production services; Services for the publication of magazines; Services for the publication of newsletters; Services for the showing of cinematographic films; Services for the showing of video recordings; Showing of cinematographic and motion picture films; Showing of prerecorded entertainment; Shows and films production; Recording, film, video and television studio services; Performance of films; Performances (Presentation of live -); Photographic reporting; Popular entertainment services; Preparation of television programmes; Presentation of dramas; Presentation of films; Presentation of live entertainment events; Presentation of movies; Production of audio entertainment; Production of audio/visual presentations; Production of cabarets; Production of cine-films; Production of cinema films; Production of cinematographic films; Production of documentaries; Production of films; Production of films for educational purposes; Production of films for entertainment purposes; Production of films in studios; Production of films, other than advertising films; Production of graphical cine-film clips; Production of live entertainment events; Production of live entertainment features; Production of live shows; Production of motion picture films; Production of radio and of television programmes; Production of radio and television programmes; Production of radio and television programs; Production of radio and television shows and programmes; Production of shows; Production of sound and music recordings; Production of stage performances; Production of stage plays; Production of stage shows; Production of television and cinema films; Production of television and radio programmes; Production of television and radio programming; Production of television and radio programs; Production of television entertainment features; Production of television entertainment programmes; Production of television features; Production of television films; Production of television or radio programmes; Production of television programmes; Production of television programs; Production of television programs for broadcast on mobile devices; Production of theatrical performances; Production of theatrical shows; Production of TV shows; Production of video and

audio recordings; Production of video and/or sound recordings; Production of video films; Production of video recordings; Providing facilities for playing paintball games; Providing films, not downloadable, via video-on-demand services; Providing films, not downloadable, via video-on-demand transmission services; Providing museum facilities; Providing of education; Providing on-line electronic publication [not downloadable]; Providing online electronic publications; Providing on-line electronic publications; Providing online electronic publications in the field of music, not downloadable; Providing on-line electronic publications [non-downloadable]; Providing online electronic publications, not downloadable; Providing on-line electronic publications, not downloadable; Providing on-line non-downloadable audio content; Providing online non-downloadable comic books and graphic novels; Providing on-line non-downloadable comics; Providing on-line non-downloadable general feature magazines; Providing on-line non-downloadable images; Providing on-line non-downloadable pictures; Providing on-line non-downloadable video content; Providing on-line publications; Providing on-line publications (non-downloadable); Providing online publications, not downloadable; Providing on-line publications (not downloadable); Providing on-line reviews of books; Providing television programmes, not downloadable, via video-on-demand services; Providing television programmes, not downloadable, via video-on-demand transmission services; Providing television programs, not downloadable, via video-on-demand services; Providing television programs, not downloadable, via video-on-demand transmission services; Provision of entertainment information; Provision of entertainment information by electronic means; Provision of entertainment information via the Internet; Provision of entertainment via podcast; Provision of information relating to education; Provision of live entertainment; Provision of live shows; Provision of musical entertainment; Provision of non-downloadable electronic publications; Provision of non-downloadable films; Provision of non-downloadable films and television programs via pay television; Provision of non-downloadable films and television programs via pay-per-view television channels; Provision of non-downloadable videos; Provision of on-line electronic publications (not downloadable); Provision of on-line entertainment; Provision of online information relating to audio and visual media; Provision of radio and television entertainment services; Publication and editing of printed matter; Publication and

edition of books; Publication of audio books; Publication of books; Publication of books, magazines, almanacs and journals; Publication of books relating to entertainment; Publication of books relating to television programmes; Publication of books, reviews; Publication of educational books; Publication of educational materials; Publication of electronic books and journals online; Publication of electronic books and journals on-line; Publication of electronic books and periodicals on the Internet; Publication of electronic magazines; Publication of magazines; Publication of material which can be accessed from databases or from the internet; Publication of multimedia material online; Publication of online guide books, travel maps, city directories and listings for use by travellers, not downloadable; Publication of online reviews in the field of entertainment; Publication of photographs; Publication of printed matter, also in electronic form, except for advertising purposes; Publication of printed matter and printed publications; Publication of printed matter in electronic form; Publication of printed matter in electronic form on the Internet; Publication of printed matter, other than publicity texts; Publication of printed matter, other than publicity texts, in electronic form; Publication of printed matter relating to education; Publication of printed matter relating to intellectual property rights; Publication of texts; Publication of texts and images, including in electronic form, except for advertising purposes; Publication of texts, other than publicity texts; Publication of the editorial content of sites accessible via a global computer network; Publishing; Publishing a newspaper for customers on the Internet; Publishing and reporting; Publishing by electronic means; Publishing of books; Publishing of books and reviews; Publishing of books, magazines; Publishing of electronic publications; Publishing of magazines in electronic form on the Internet; Publishing of maps; Publishing of stories; Publishing of web magazines; Publishing services for books; Online digital publishing services; Online electronic publishing of books and periodicals; On-line entertainment; Online entertainment services; Online publication of electronic books and journals; On-line publication of electronic books and journals (non-downloadable); Organisation of entertainment services; Organisation of exhibitions for cultural and educational purposes; Organisation of exhibitions for cultural or educational purposes; Organisation of exhibitions for educational purposes; Organisation of fashion shows for entertainment purposes; Organisation

of festivals; Organisation of live performances; Organisation of outings for entertainment; Organisation of parties; Organisation of shows; Organising events for entertainment purposes; Organising of stage shows; Organising of theatre productions; Organization of cultural shows; Organization of exhibitions for educational purposes; Organization of fashion shows for entertainment purposes; Organizing and arranging exhibitions for entertainment purposes; Organizing cultural and arts events; News programme services for radio or television; News programming services for transmission across the internet; Magazine publishing; Magazines (Publication of -); Motion picture film production; Motion picture production; Multimedia publishing of magazines; Multimedia publishing of magazines, journals and newspapers; Multimedia publishing of newspapers; Multimedia publishing of printed matter; Museum exhibitions; Museums; Live entertainment; Festivals (Organisation of -) for cultural purposes; Film production; Film production for entertainment purposes; Entertainment; Entertainment by film; Entertainment by means of concerts; Entertainment by means of radio; Entertainment by means of television; Entertainment, education and instruction services; Entertainment in the form of live musical performances (Services providing -); Entertainment in the form of television programmes (Services providing -); Entertainment provided by cable television; Entertainment services; Entertainment services by stage production and cabaret; Entertainment services featuring fictional characters; Entertainment services for producing live shows; Entertainment services in the form of cinema performances; Entertainment services in the form of motion pictures; Entertainment services in the form of television programmes; Entertainment services provided by television; Entertainment services provided on-line from a computer database or the internet; Exhibition of video films; Digital music [not downloadable] provided from the internet; Digital video, audio and multimedia entertainment publishing services; Cabarets; Cabarets and discotheques; all the aforesaid relating to the history and culture of the LGBTQ+ community.

Annex 2

UK00003296777 (“the first earlier mark”)

LAD BIBLE

Goods and services

Class 9: *Publications in electronic format; downloadable publications; downloadable electronic publications; online electronic publications downloadable from the Internet; publications in electronic form supplied online from databases or from facilities provided on the Internet (including web sites); electronic magazines; multi-media recordings and publications; printed publications in electronically readable form; computer software and programs; computer games; downloadable software; downloadable software applications; computer software downloadable from the Internet; application software; application software for mobile communication devices; Video games software; Interactive video game programs; Instruction manuals in electronic format; Encoded identity cards; Downloadable interactive entertainment software; Computer software for use in providing multiple user access to a global computer information network; data recorded in electronic, optical or magnetic form; data carriers; data storage media; memory cards; audio and/or video recordings; downloadable and streamable audio and/or video recordings; pre-recorded videos, CDs, CDIs, CD-ROMs, discs, cassettes and other data carriers containing information recorded in magazine form; Computer peripheral devices; keyboards, mice (data processing), trackballs for moving the cursor and wireless electronic controls, all for use with electronic apparatus for consumers; Data processing equipment; Remote controls; Computer keyboards; audio headphones and headsets for use with computers and video gaming; Downloadable video recordings; computer game programs; game programs for arcade video game machines; video game controllers, namely remote controls, joysticks, interactively controlled floor pads, steering wheels for video games, headphones, keyboards and mice (data processing), all for use with computers and consoles for video game platforms; wireless mice (data processing) and remote controls for use with televisions, computers and set-top boxes (decoders); mouse pads; touch keys (touch pads); computer keyboard controllers; computer programs and software for use in conjunction with the provision of an interface (interface devices or interface programs for computers) between a computer and a peripheral apparatus; interactive user manuals sold as a units with the aforesaid goods;*

eyewear; glasses; spectacles; sunglasses; lenses; frames for spectacles and sunglasses; cases and boxes for spectacles and sunglasses; cords, straps and chains for spectacles and sunglasses; sports eyewear; eye protection wear for sports; glasses for sports; magnets; digital photograph frames; covers and cases for mobile phones, computers and personal electronic devices; parts and fittings for all the aforesaid goods.

Class 38: *Telecommunications; communications services; broadcasting services; webcasting services; podcasting services; Audio broadcasting; Video broadcasting; Internet broadcasting services; Streaming of audio and video material via the internet; broadcasting via the Internet and other computer and communication networks; electronic communications services; broadcasting services and provision of telecommunication access to video and audio content provided via a video-on-demand service via the internet; Audio, video and multimedia broadcasting via the Internet and other communications networks; broadcasting, transmission, reception and other dissemination of text, messages, information, data, sound and images; providing a multimedia content and video sharing portal; electronic transmission of data, messages and information; Provision of telecommunication access to video content provided via the Internet; Transmission of videos, movies, pictures, images, text, photos, games, user-generated content, audio content, and information via the Internet; Providing user access to search engines; Provision of access to the internet for others; Communication by online blogs; Telecommunication services provided via platforms and portals on the Internet and other media; Provision of telecommunication access to video and audio content provided via an online video-on-demand service; Video-on-demand transmission services; Transmission of data, audio, video and multimedia files, including downloadable files and files streamed over a global computer network; receiving and exchanging of information, text, sounds, images, data and messages; communications by and/or between computers and computer terminals and computer networks; retrieval, provision and display of information from a computer stored databank; provision of access to computer databases in the fields of social networking and online communities; electronic display of information, text, images, messages and data; online communication services; chat room services; providing on-line chat rooms and*

interactive discussion forums; providing user access to portals on the Internet; providing user access to platforms on the Internet; provision of online forums for communication on topics of general interest; provision of online forums relating to education and entertainment, music, fashion, films, food, careers, women, travel, sports, adventure and lifestyle; provision of online community forums for uploading, posting, storing, displaying, sharing, watching, viewing, playing, editing, downloading, receiving, electronically transmitting or otherwise providing electronic media, multimedia content, audio and video content, movies, music, games, photos, images, pictures, graphics, text, messages, information, data, news and user-generated content via the Internet and other computer and communication networks; electronic transmission of news and current affairs information; information, advisory and consultancy services relating to all of the aforesaid services.

Class 41: *Entertainment services; education services; sporting and cultural activities; online education entertainment services; entertainment services provided via the Internet and other computer and communications networks; entertainment services featuring electronic media, multimedia content, audio and video content, movies, music, games, photos, images, pictures, graphics, text, messages, information, data, news and user-generated content provided via the Internet and other computer and communication networks; presentation of data, messages and documents for entertainment purposes; interactive information provided online via the Internet and other computer and communication networks relating to education, entertainment, music, films and sports; interactive information provided online via the Internet and other computer and communication networks relating to news and entertainment in the fields of fashion, food, careers, travel, women's health and adventure sports; provision of entertainment information for accessing via communication and computer networks; providing non-downloadable electronic publications; providing online publications (not downloadable); providing online non-downloadable magazines; production of video recordings and sound recordings; production of webcasts; production of podcasts; publishing services; publication of magazines, books, texts and printed matter; publishing by electronic means; digital video, audio and multimedia entertainment publishing services; multimedia*

publishing of magazines, journals and news; provision of audio and/or visual material and games online (not downloadable); online publication of news and current affairs; electronic publications (not downloadable); providing on-line videos (non-downloadable); provision of entertainment services through the media of video-films; arranging, organising and conducting of games, contests, competitions, quizzes, awards, conferences, exhibitions, courses, seminars and events; organising, conducting and production of shows, displays and parties; arranging, organising, presentation and provision of concerts, live entertainment, musical performances; arranging and conducting award ceremonies; presentation of awards for achievement; arranging, organising and conducting of events for cultural and sporting purposes; organisation of sporting competitions and sports events; gaming services; hospitality services (entertainment); hospitality services, namely customer reception services (entertainment services), including provision of admission tickets for sporting or entertainment events; fan club services; information, advisory and consultancy services relating to all of the aforesaid services.

UK00003195897 -Series of two ("the second earlier mark")

BIBLE

bible

Goods and services

Class 9: *Publications in electronic format; downloadable publications; downloadable electronic publications; online electronic publications downloadable from the Internet; publications in electronic form supplied online from databases or from facilities provided on the Internet (including web sites); electronic magazines; multi-media recordings and publications; printed publications in electronically readable form; computer software and programs; computer games; downloadable software; downloadable software applications; computer software downloadable from the Internet; application software; application software for mobile communication devices; Video games software; Interactive video game programs; Instruction manuals in electronic format; Downloadable interactive entertainment*

software; Computer software for use in providing multiple user access to a global computer information network; data recorded in electronic, optical or magnetic form; data carriers; data storage media; memory cards; audio and/or video recordings; downloadable and streamable audio and/or video recordings; pre-recorded videos, CDs, CDIs, CD-ROMs, discs, cassettes and other data carriers containing information recorded in magazine form; Downloadable video recordings; computer game programs; game programs for arcade video game machines; computer programs and software for use in conjunction with the provision of an interface (interface devices or interface programs for computers) between a computer and a peripheral apparatus; interactive user manuals sold as a units with the aforesaid goods; all of the aforementioned providing original and user generated content featuring topical news and current affairs, entertainment, frivolous or comedic information; all the aforesaid relating to media culture, politics, celebrities, fashion, food, health and mental health, environmental issues, fitness, careers, travel, sports, hobbies, crafts. Encoded identity cards; Computer peripheral devices; keyboards, mice (data processing), trackballs for moving the cursor and wireless electronic controls, all for use with electronic apparatus for consumers; Data processing equipment; Remote controls; Computer keyboards; audio headphones and headsets for use with computers and video gaming; video game controllers, namely remote controls, joysticks, interactively controlled floor pads, steering wheels for video games, headphones, keyboards and mice (data processing), all for use with computers and consoles for video game platforms; wireless mice (data processing) and remote controls for use with televisions, computers and set-top boxes (decoders); mouse pads; touch keys (touch pads); computer keyboard controllers; eyewear; glasses; spectacles; sunglasses; lenses; frames for spectacles and sunglasses; cases and boxes for spectacles and sunglasses; cords, straps and chains for spectacles and sunglasses; sports eyewear; eye protection wear for sports; glasses for sports; magnets; digital photograph frames; covers and cases for mobile phones, computers and personal electronic devices; parts and fittings for all the aforesaid goods.

Class 38: *Telecommunications; communications services; broadcasting services; webcasting services; podcasting services; Audio broadcasting; Video broadcasting;*

Internet broadcasting services; Streaming of audio and video material via the internet; broadcasting via the Internet and other computer and communication networks; electronic communications services; broadcasting services and provision of telecommunication access to video and audio content provided via a video-on-demand service via the internet; Audio, video and multimedia broadcasting via the Internet and other communications networks; broadcasting, transmission, reception and other dissemination of text, messages, information, data, sound and images; providing a multimedia content and video sharing portal; electronic transmission of data, messages and information; Provision of telecommunication access to video content provided via the Internet; Transmission of videos, movies, pictures, images, text, photos, games, user-generated content, audio content, and information via the Internet; Providing user access to search engines; Provision of access to the internet for others; Communication by online blogs; Telecommunication services provided via platforms and portals on the Internet and other media; Provision of telecommunication access to video and audio content provided via an online video-on-demand service; Video-on-demand transmission services; Transmission of data, audio, video and multimedia files, including downloadable files and files streamed over a global computer network; receiving and exchanging of information, text, sounds, images, data and messages; communications by and/or between computers and computer terminals and computer networks; retrieval, provision and display of information from a computer stored databank; provision of access to computer databases in the fields of social networking and online communities; electronic display of information, text, images, messages and data; online communication services; chat room services; providing on-line chat rooms and interactive discussion forums; providing user access to portals on the Internet; providing user access to platforms on the Internet; provision of online forums for communication on topics of general interest; provision of online forums relating to education and entertainment, music, fashion, films, food, careers, women, travel, sports, adventure and lifestyle; provision of online community forums for uploading, posting, storing, displaying, sharing, watching, viewing, playing, editing, downloading, receiving, electronically transmitting or otherwise providing electronic media, multimedia content, audio and video content, movies, music, games, photos, images, pictures, graphics, text, messages, information, data, news and user-

generated content via the Internet and other computer and communication networks; electronic transmission of news and current affairs information; information, advisory and consultancy services relating to all of the aforesaid services.

Class 41: *Entertainment services; education services; cultural activities; online education entertainment services; entertainment services provided via the Internet and other computer and communications networks; entertainment services featuring electronic media, multimedia content, audio and video content, movies, music, games, photos, images, pictures, graphics, text, messages, information, data, news and user-generated content provided via the Internet and other computer and communication networks; presentation of data, messages and documents for entertainment purposes; interactive information provided online via the Internet and other computer and communication networks relating to news and entertainment in the fields of fashion, food, careers, travel, women's health and adventure sports; provision of entertainment information for accessing via communication and computer networks; providing non-downloadable electronic publications; providing online publications (not downloadable); providing online non-downloadable magazines; production of video recordings and sound recordings; production of webcasts; production of podcasts; publishing services; publication of magazines, books, texts and printed matter; publishing by electronic means; digital video, audio and multimedia entertainment publishing services; multimedia publishing of magazines, journals and news; provision of audio and/or visual material and games online (not downloadable); online publication of news and current affairs; electronic publications (not downloadable); providing on-line videos (non-downloadable); provision of entertainment services through the media of video-films; arranging, organising and conducting of games, contests, competitions, quizzes, awards, conferences, exhibitions, courses, seminars and events; organising, conducting and production of shows, displays and parties; arranging, organising, presentation and provision of concerts, live entertainment, musical performances; arranging and conducting award ceremonies; presentation of awards for achievement; arranging, organising and conducting of events for cultural purposes; hospitality services (entertainment); hospitality services, namely customer reception services*

(entertainment services), including provision of admission tickets for sporting or entertainment events; information, advisory and consultancy services relating to all of the aforesaid services; all of the aforementioned providing original and user generated content featuring topical news and current affairs, entertainment, frivolous or comedic information; all the aforesaid relating to media culture, politics, celebrities, fashion, food, health and mental health, environmental issues, fitness, careers, travel, sports, hobbies, crafts; information, advisory and consultancy services relating to all of the aforesaid services. Sporting activities; interactive information provided online via the Internet and other computer and communication networks, relating to music, fashion, films, food, careers, travel, sports, adventure and lifestyle; arranging, organising and conducting of events for sporting purposes; organisation of sporting competitions and sports events; gaming services; fan club services; information, advisory and consultancy services relating to all of the aforesaid services.

EUTM 14266531 (“the second earlier mark”)

The GAMING Bible

Goods and services

Class 9: *Publications in electronic format; downloadable publications; downloadable electronic publications; online electronic publications downloadable from the Internet; publications in electronic form supplied online from databases or from facilities provided on the Internet (including web sites); electronic magazines; multi-media recordings and publications; multi-media content; printed publications in electronically readable form; computer software and programs; computer games software; downloadable software; computer software downloadable from the Internet; application software; application software for mobile communication devices; data recorded in electronic, optical or magnetic form; data carriers; data storage media; memory cards; audio and/or video recordings; downloadable and streamable audio and/or video recordings; animated cartoons; pre-recorded videos, CDs, CDis, CD-ROMs, discs, cassettes and other data carriers containing information recorded in magazine form; databases; eyewear; glasses; spectacles; sunglasses; lenses; frames for spectacles and sunglasses; cases and boxes for*

spectacles and sunglasses; cords, straps and chains for spectacles and sunglasses; magnets; digital photograph frames; covers and cases for mobile phones, computers and personal electronic devices.

Class 16: *Printed matter; printed publications; magazines; journals; periodical publications; newspapers; books; newsletters; leaflets; pages downloaded from the Internet (in paper format); printed programmes; guides; charts; maps; tickets; printed forms; certificates; gift vouchers; catalogues; photographs; prints and pictures; posters; trading cards; collectors' cards; stickers; transfers; decalcomanias; stencils; diaries; calendars; address books; albums; envelopes; labels; folders; binders; note books; paper; cardboard; stationery; writing implements; pens; pencils; cases, boxes and holders for pens and pencils; bookmarks; bookends; paperweights; cards; greeting cards; wrapping and packaging materials; gift wrap and packaging paper; gift bags and bags for packaging; gift tags; paper table linen; beer mats; paper flags and pennants; paper banners.*

Class 25: *Clothing, footwear, headgear.*

Class 35: *Advertising services; advertising via the Internet; provision of advertising space; provision of space on web sites for advertising goods and services; promotional and marketing services; operation and supervision of membership schemes; data processing; retail services and online retail services connected with the sale of toiletries, cosmetics, hair care products, fragrances, badges, signs, plaques, ornaments, works of art, money boxes, key chains, penknives, publications in electronic format, downloadable publications, downloadable electronic publications, online electronic publications downloadable from the Internet, publications in electronic form supplied online from databases or from facilities provided on the Internet (including web sites); retail services and online retail services connected with the sale of electronic magazines, multi-media recordings and publications, multi-media content, printed publications in electronically readable form, computer software and programs, computer games software, downloadable software, computer software downloadable from the Internet, application software, application software for mobile communication devices, data recorded in electronic,*

optical or magnetic form, data carriers, data storage media; retail services and online retail services connected with the sale of memory cards, audio and/or video recordings, downloadable and streamable audio and/or video recordings, pre-recorded videos, CDs, CDIs, CD-ROMs, discs, cassettes and other data carriers containing information recorded in magazine form, eyewear, glasses, spectacles, sunglasses, lenses, frames for spectacles and sunglasses, cases and boxes for spectacles and sunglasses, cords, straps and chains for spectacles and sunglasses; retail services and online retail services connected with the sale of magnets, digital photograph frames, covers and cases for mobile phones, computers and personal electronic devices, jewellery, clocks, watches, watch straps, key rings, trinkets and fobs, ornamental pins, cufflinks, tie pins and tie clips, printed matter, printed publications, magazines, journals, periodical publications, newspapers, books, newsletters, leaflets, pages downloaded from the Internet (in paper format); retail services and online retail services connected with the sale of printed programmes, guides, charts, maps, tickets, printed forms, certificates, gift vouchers, catalogues, photographs, prints and pictures, posters, trading cards, collectors' cards, stickers, transfers, decalcomanias, stencils, diaries, calendars, address books, albums, envelopes, labels, folders, binders, note books, paper, cardboard, stationery, writing implements, pens, pencils, cases, boxes and holders for pens and pencils; retail services and online retail services connected with the sale of bookmarks, bookends, paperweights, cards, greeting cards, wrapping and packaging materials, gift wrap and packaging paper, gift bags and bags for packaging, gift tags, paper table linen, beer mats, paper flags and pennants, paper banners, bags, cases, articles of luggage, wallets, purses, credit card cases and holders, keycases, umbrellas; retail services and online retail services connected with the sale of tableware, glassware, drinking vessels, cups, mugs, bottle openers, corkscrews, flasks, models, photograph frames, textiles, household textile articles, textiles for making articles of clothing, table linen, bed linen, towels, clothing, footwear, headgear, fashion accessories, buckles, lanyards for wear; retail services and online retail services connected with the sale of games and playthings, toys, gymnastic and sporting articles, whistles, playing cards, confetti, balloons, party novelties, food products, confectionery, snack foods, drinks, matches and lighters; information, advisory and consultancy services relating to all of the aforesaid services.

Class 38: *Telecommunications; communications services; broadcasting services; webcasting services; podcasting services; broadcasting via the Internet and other computer and communication networks; electronic communications services; broadcasting, transmission, reception and other dissemination of text, messages, information, data, sound and images; providing a multimedia content and video sharing portal; electronic transmission of data, messages and information; receiving and exchanging of information, text, sounds, images, data and messages; communications by and/or between computers and computer terminals and computer networks; retrieval, provision and display of information from a computer stored databank; provision of access to computer databases in the fields of social networking and online communities; electronic display of information, text, images, messages and data; online communication services; chat room services; provision of online forums for communication on topics of general interest; online forums relating to education and entertainment, music, fashion, films, food, careers, women, travel, sports, adventure and lifestyle; provision of online community forums for uploading, posting, storing, displaying, sharing, watching, viewing, playing, editing, downloading, receiving, electronically transmitting or otherwise providing electronic media, multimedia content, audio and video content, movies, music, games, photos, images, pictures, graphics, text, messages, information, data, news and user-generated content via the Internet and other computer and communication networks; information, advisory and consultancy services relating to all of the aforesaid services.*

Class 41: *Entertainment services; education services; sporting and cultural activities; online education entertainment services; entertainment services provided via the Internet and other computer and communications networks; entertainment services featuring electronic media, multimedia content, audio and video content, movies, music, games, photos, images, pictures, graphics, text, messages, entertainment information, data, news and user-generated content provided via the Internet and other computer and communication networks; presentation of data, messages and documents for entertainment purposes; interactive information provided online via the Internet and other computer and communication networks,*

relating to education and entertainment, music, fashion, films, careers and sports; provision of entertainment information for accessing via communication and computer networks; providing non-downloadable electronic publications; providing online publications (not downloadable); providing online non-downloadable magazines; production of video recordings and sound recordings; production of webcasts; production of podcasts; publishing services; publication of magazines, books, texts and printed matter; publishing by electronic means; digital video, audio and multimedia entertainment publishing services; provision of audio and/or visual material and games online (not downloadable); publication of news online; arranging, organising and conducting of games, contests, competitions, quizzes, awards, conferences, exhibitions, courses, seminars and events; organising, conducting and production of shows, displays and parties; arranging, organising, presentation and provision of concerts, live entertainment, musical performances; arranging and conducting award ceremonies; presentation of awards for achievement; arranging, organising and conducting of events for cultural and sporting purposes; organisation of sporting competitions and sports events; gaming services; information, advisory and consultancy services relating to all of the aforesaid services.

Class 42: *Providing temporary use of non-downloadable software, programs and applications; providing on-demand software; providing temporary use of non-downloadable software to enable uploading, posting, storing, displaying, sharing, watching, viewing, playing, editing, downloading, receiving, publishing, distributing, streaming, reproducing, transmitting or otherwise providing electronic media, multimedia content, audio and video content, movies, music, games, photos, images, pictures, graphics, text, messages, information, data, news and user-generated content via the Internet and other computer and communication networks; providing temporary use of non-downloadable software to enable sharing of online content among users; providing temporary use of non-downloadable software applications for social and community networking; hosting online web facilities for others; hosting multimedia content for others; hosting electronic facilities for others for organising online groups and events, participating in online meetings and discussions, and enabling online community and social networking; website*

hosting and design services; maintenance of websites; electronic data storage; information, advisory and consultancy services relating to all of the aforesaid services.

EUTM 13065024 ("the fourth earlier mark")

The SPORT Bible

Goods and services

Class 9: *Publications in electronic format; downloadable publications; downloadable electronic publications; online electronic publications downloadable from the Internet; publications in electronic form supplied online from databases or from facilities provided on the Internet (including web sites); electronic magazines; multi-media recordings and publications; printed publications in electronically readable form; computer software and programs; computer games software; downloadable software; computer software downloadable from the Internet; application software; application software for mobile communication devices; data recorded in electronic, optical or magnetic form; data carriers; data storage media; memory cards; audio and/or video recordings; downloadable and streamable audio and/or video recordings; pre-recorded videos, CDs, CDIs, CD-ROMs, discs, cassettes and other data carriers containing information recorded in magazine form; eyewear; glasses; spectacles; sunglasses; lenses; frames for spectacles and sunglasses; cases and boxes for spectacles and sunglasses; cords, straps and chains for spectacles and sunglasses; magnets; digital photograph frames; covers and cases for mobile phones, computers and personal electronic devices.*

Class 16: *Printed matter; printed publications; magazines; journals; periodical publications; newspapers; books; newsletters; leaflets; pages downloaded from the Internet (in paper format); printed programmes; guides; charts; maps; tickets; printed forms; certificates; gift vouchers; catalogues; photographs; prints and pictures; posters; trading cards; collectors' cards; stickers; transfers; decalcomanias; stencils; diaries; calendars; address books; albums; envelopes; labels; folders; binders; note books; paper; cardboard; cardboard articles not included in other classes; stationery; writing implements; pens; pencils; cases, boxes and holders for pens and*

pencils; bookmarks; bookends; paperweights; cards; greeting cards; wrapping and packaging materials; gift wrap and packaging paper; gift bags and bags for packaging; gift tags; paper table linen; beer mats; paper flags and pennants; paper banners.

Class 25: *Clothing, footwear, headgear.*

Class 35: *Advertising services; advertising via the Internet; provision of advertising space; provision of space on web sites for advertising goods and services; promotional and marketing services; operation and supervision of membership schemes; data processing; retail services and online retail services connected with the sale of toiletries, cosmetics, hair care products, fragrances, badges, signs, plaques, ornaments, works of art, money boxes, key chains, penknives, publications in electronic format, downloadable publications, downloadable electronic publications, online electronic publications downloadable from the Internet, publications in electronic form supplied online from databases or from facilities provided on the Internet (including web sites), electronic magazines, multi-media recordings and publications, printed publications in electronically readable form, computer software and programs, computer games, downloadable software, computer software downloadable from the Internet, application software, application software for mobile communication devices, data recorded in electronic, optical or magnetic form, data carriers, data storage media, memory cards, audio and/or video recordings, downloadable and streamable audio and/or video recordings, pre-recorded videos, CDs, CDIs, CD-ROMs, discs, cassettes and other data carriers containing information recorded in magazine form, eyewear, glasses, spectacles, sunglasses, lenses, frames for spectacles and sunglasses, cases and boxes for spectacles and sunglasses, cords, straps and chains for spectacles and sunglasses, magnets, digital photograph frames, covers and cases for mobile phones, computers and personal electronic devices, jewellery, clocks, watches, watch straps, key rings, trinkets and fobs, ornamental pins, cufflinks, tie pins and tie clips, printed matter, printed publications, magazines, journals, periodical publications, newspapers, books, newsletters, leaflets, pages downloaded from the Internet (in paper format), printed programmes, guides, charts, maps, tickets, printed forms,*

certificates, gift vouchers, catalogues, photographs, prints and pictures, posters, trading cards, collectors' cards, stickers, transfers, decalcomanias, stencils, diaries, calendars, address books, albums, envelopes, labels, folders, binders, note books, paper, cardboard, paper articles, cardboard articles not included in other classes, stationery, writing implements, pens, pencils, cases, boxes and holders for pens and pencils, bookmarks, bookends, paperweights, cards, greeting cards, wrapping and packaging materials, gift wrap and packaging paper, gift bags and bags for packaging, gift tags, paper table linen, beer mats, paper flags and pennants, paper banners, bags, cases, articles of luggage, wallets, purses, credit card cases and holders, keycases, umbrellas, tableware, glassware, drinking vessels, cups, mugs, bottle openers, corkscrews, flasks, models, photograph frames, textiles, household textile articles, textiles for making articles of clothing, table linen, bed linen, towels, clothing, footwear, headgear, fashion accessories, buckles, lanyards for wear, games and playthings, toys, gymnastic and sporting articles, whistles, playing cards, confetti, balloons, party novelties, food products, confectionery, snack foods, drinks, matches and lighters; information, advisory and consultancy services relating to all of the aforesaid services.

Class 38: *Telecommunications; communications services; broadcasting services; webcasting services; podcasting services; broadcasting via the Internet and other computer and communication networks; electronic communications services; broadcasting, transmission, reception and other dissemination of text, messages, information, data, sound and images; providing a multimedia content and video sharing portal; electronic transmission of data, messages and information; receiving and exchanging of information, text, sounds, images, data and messages; communications by and/or between computers and computer terminals and computer networks; retrieval, provision and display of information from a computer stored databank; provision of access to computer databases in the fields of social networking and online communities; electronic display of information, text, images, messages and data; online communication services; chat room services; provision of online forums for communication on topics of general interest; online forums relating to education and entertainment, music, fashion, films, food, careers, women, travel, sports, adventure and lifestyle; provision of online community forums for*

uploading, posting, storing, displaying, sharing, watching, viewing, playing, editing, downloading, receiving, electronically transmitting or otherwise providing electronic media, multimedia content, audio and video content, movies, music, games, photos, images, pictures, graphics, text, messages, information, data, news and user-generated content via the Internet and other computer and communication networks; information, advisory and consultancy services relating to all of the aforesaid services.

Class 41: *Entertainment services; education services; sporting and cultural activities; online education entertainment services; entertainment services provided via the Internet and other computer and communications networks; entertainment services featuring electronic media, multimedia content, audio and video content, movies, music, games, photos, images, pictures, graphics, text, messages, information, data, news and user-generated content provided via the Internet and other computer and communication networks; presentation of data, messages and documents for entertainment purposes; interactive information provided online via the Internet and other computer and communication networks, relating to education and entertainment, music, fashion, films, food, careers, women, travel, sports, adventure and lifestyle; provision of entertainment information for accessing via communication and computer networks; providing non-downloadable electronic publications; providing online publications (not downloadable); providing online non-downloadable magazines; production of video recordings and sound recordings; production of webcasts; production of podcasts; publishing services; publication of magazines, books, texts and printed matter; publishing by electronic means; digital video, audio and multimedia entertainment publishing services; provision of audio and/or visual material and games online (not downloadable); arranging, organising and conducting of games, contests, competitions, quizzes, awards, conferences, exhibitions, courses, seminars and events; organising, conducting and production of shows, displays and parties; arranging, organising, presentation and provision of concerts, live entertainment, musical performances; arranging and conducting award ceremonies; presentation of awards for achievement; arranging, organising and conducting of events for cultural and sporting purposes; organisation of sporting*

competitions and sports events; gaming services; information, advisory and consultancy services relating to all of the aforesaid services.

Class 42: *Providing online non-downloadable software; providing non-downloadable software to enable uploading, posting, storing, displaying, sharing, watching, viewing, playing, editing, downloading, receiving, publishing, distributing, streaming, reproducing, electronically transmitting or otherwise providing electronic media, multimedia content, audio and video content, movies, music, games, photos, images, pictures, graphics, text, messages, information, data, news and user-generated content via the Internet and other computer and communication networks; providing non-downloadable software to enable sharing of online content among users; providing temporary use of non-downloadable software applications for social and community networking; hosting online web facilities for others; hosting multimedia content for others; hosting electronic facilities for others for organising online groups and events, participating in online meetings and discussions, and enabling online community and social networking; website hosting and design services; maintenance of websites; electronic data storage; information, advisory and consultancy services relating to all of the aforesaid services.*

EUTM 16780521 ("the fifth earlier mark")

TRAVEL BIBLE

Goods and services

Class 9: *Publications in electronic format; downloadable publications; downloadable electronic publications; Downloadable electronic books; Downloadable electronic brochures; Downloadable video recordings featuring music; Electronic publications, downloadable; Electronic publications recorded on computer media; Electronic publications, downloadable, relating to games and gaming; Weekly publications downloaded in electronic form from the internet; Downloadable electronic publications in the nature of magazines; multi-media recordings; Computer software programs; Computer programs and software for image processing used for mobile phones; Computer programmes; computer games; downloadable software; Computer software downloaded from the internet;*

computer application software; Application software for mobile phones; Computer application software for mobile phones; Optical data carriers; Magnetic data carriers; Electronic data carriers; data storage media; memory cards; audio recordings; video recordings; audio visual recordings; downloadable video recordings; devices for streaming media content over local wireless networks; prerecorded music videos; prerecorded motion picture videos; prerecorded CD-ROMs; prerecorded CD-Is; Pre-recorded DVDs; Prerecorded digital audio tapes; Prerecorded music compact discs; Prerecorded video cassettes featuring cartoons; Prerecorded video cassettes featuring music; Prerecorded video cassettes featuring animated fictional stories; eyewear; glasses; spectacles; sunglasses; Sunglass lenses; Ophthalmic lenses; frames for spectacles and sunglasses; boxes [cases] for sunglasses; boxes [cases] for glasses; cords for sunglasses; cords for spectacles; straps for sunglasses; Spectacle straps; chains for spectacles; chains for sunglasses; magnets; Digital photo frames; Cases for mobile phones; Cases adapted for computers; Cases for tablet computers; Cases adapted for netbook computers; Flip covers for mobile phones; Mobile phone covers; Mobile telephone covers; downloadable application software for smart phones.

Class 35: *Advertising services; advertising for others; online advertising on a computer network; Online advertisements; Dissemination of advertising matter online; Direct mail advertising; Direct mail advertising services; direct market advertising; advertising, including on-line advertising on a computer network; advertising on the internet for others; production of advertising materials; compilation, production and dissemination of advertising matter; dissemination of advertising and promotional materials; production of video recordings for advertising purposes; provision of advertising space, time and media; rental of advertising space; providing and rental of advertising space on the internet; provision of space on websites for advertising goods and services; creating advertising material; dissemination of advertisements; promoting the designs of others by means of providing online portfolios via a website; promoting the music of others by means of providing online portfolios via a website; promoting the goods and services of others through advertisements on internet websites; advertising and marketing services provided by means of social media; providing business information in the field of*

social media; providing marketing consulting in the field of social media; online retail services relating to clothing; online retail services relating to luggage; retail services in relation to recorded content; Advertising services provided via the internet; Providing a searchable online advertising guide featuring the goods and services of other on-line vendors on the internet; Online advertising network matching services for connecting advertisers to websites; Advertising the goods and services of online vendors via a searchable online guide; placing advertisements for others; advertising of business web sites; advertising services provided over the internet; advertising in the field of tourism and travel; Rental of advertising space on web sites; Online advertising via a computer communications network.

Class 38: *Telecommunications; broadcasting services; internet broadcasting services; audio and video broadcasting services provided via the internet; providing user access to portals on the internet; provision of access to content, websites and portals; interactive broadcasting and communications services; Transmission of short messages [SMS], images, speech, sound, music and text communications between mobile telecommunications devices; transmission of video data via the internet; transmission of audio data via the internet; transmission of videos, movies, pictures, images, text, photos, games, user-generated content, audio content, and information via the internet; audio, video and multimedia broadcasting via the internet and other communications networks; telecommunication services provided via platforms and portals on the internet and other media; chatroom services for social networking; broadcasting of audiovisual and multimedia content via the internet; Transmission of multimedia content via the Internet; communication of information by computer; digital audio broadcasting; digital transmission of data via the internet; digital transmission services for audio and video data; transmission of news and current affairs information; transmission of digital information; podcasting; providing access to a video sharing portal; providing an online interactive bulletin board; providing on-line electronic bulletin boards for transmission of messages among computer users; providing on-line chatrooms and electronic bulletin boards for transmission of messages amongst users; providing access to information via the internet; providing online chatrooms for the transmission of messages, comments and multimedia content among users; Transmission of data, audio, video*

and multimedia files, including downloadable files and files streamed over a global computer network; webcasting services.

Class 39: *Transport; packaging and storage of goods; travel arrangement; travel services; travel organisation; travel route planning; arranging travel tours; travel and passenger transportation; computerised reservation services for travel; agency services for arranging travel; travel reservation; booking of tickets for travel; reservation of seats for travel; reservation and booking of seats for travel; travel arrangement services; organization of travel tours; arranging and booking of excursions and sightseeing tours; making travel reservations (services for -); storage services; travel agency services.*

Class 41: *Education; providing of training; entertainment; sporting and cultural activities; entertainment services; education services; online interactive entertainment; entertainment in the form of recorded music (Services providing -); entertainment, education and instruction services; arranging and conducting of meetings in the field of entertainment; arranging and conducting of live entertainment events; audio-visual display presentation services for entertainment purposes; audio entertainment services; audio and video production, and photography; arranging of visual and musical entertainment; comedy club services; consultancy services in the field of entertainment; consultancy services in the field of entertainment provided via the Internet; conducting guided tours of cultural sites for educational purposes; entertainment by IP-TV; entertainment by means of wireless television broadcasts; entertainment agency services; electronic viewing guide services; electronic library services for the supply of electronic information (including archive information) in the form of text, audio and/or video information; Electronic games services, including provision of computer games on-line or by means of a global computer network; entertainment information; entertainment provided via a global communication network; entertainment provided via the internet; entertainment services provided on-line from a computer database or the internet; entertainment services in the nature of organizing social entertainment events; entertainment services for sharing audio and video recordings; entertainment services for matching users with audio and video recordings;*

entertainment, sporting and cultural activities; fan club services (entertainment); fetes (Organisation of -) for entertainment purposes; hosting of fantasy sports leagues; games services provided via computer networks and global communication networks; game services provided by means of communications by computer terminals or mobile telephone; freelance journalism; lighting productions for entertainment purposes; Internet radio entertainment services; interactive entertainment services; information relating to entertainment, provided on-line from a computer database or the internet; information relating to cultural activities; information relating to computer gaming entertainment provided online from a computer database or a global communication network; information and advisory services relating to entertainment; information about entertainment and entertainment events provided via online networks and the Internet; hosting [organising] awards; music performances; music festival services; live show production services; live entertainment; live music performances; live comedy shows; organisation of entertainment services; on-line ticket agency services for entertainment purposes; organising of shows for entertainment purposes; organising events for entertainment purposes; organising of audience participative games; organisation of live performances; organising of sporting events, competitions and sporting tournaments; photographic reporting; organizing and presenting displays of entertainment relating to style and fashion; organization of shows [impresario services]; presentation of live comedy shows; presentation of dramas; preparation of texts for publication; preparation of special effects for entertainment purposes; preparation of news programmes for broadcasting; preparation of entertainment programmes for the cinema; preparation of entertainment programmes for broadcasting; preparation of documentary programmes for broadcasting; popular entertainment services; presentation of live performances; presentation of live entertainment performances; presentation of variety shows; production of comedy shows; production of live entertainment events; providing digital music from the internet; providing digital music from mp3 internet web sites; providing a computer game that may be accessed by users on a global network and/or the internet; production of live performances; providing interactive multi-player computer games via the internet and electronic communication networks; Providing information on entertainment through computer networks;

Providing information in the field of entertainment by means of a global computer network; providing films, not downloadable, via video-on-demand transmission services; providing facilities for entertainment; providing entertainment information; providing entertainment in the nature of film clips via a website; providing sports entertainment via a website; providing television programmes, not downloadable, via video-on-demand transmission services; providing online entertainment in the nature of fantasy sports leagues; providing online entertainment in the nature of game tournaments; providing on-line reviews of books; providing on-line music, not downloadable; providing on-line interactive computer games; providing on-line information in the field of computer gaming entertainment; provision of entertainment via podcast; provision of entertainment services through the media of publications; provision of entertainment information via the Internet; provision of entertainment information by electronic means; provision of entertainment information via television, broadband, wireless and on-line services; provision of audio and visual media via communications networks; providing video entertainment via a website; provision of online information relating to audio and visual media; provision of on-line entertainment; provision of news relating to sport; provision of live entertainment; provision of live shows; showing of prerecorded entertainment; showing of films; show production services; services providing entertainment in the form of live musical performances; reservation services for concert tickets; reservation services for show tickets; reservation services for theatre tickets; ticket reservation and booking services for recreational and leisure events; ticket agency services [entertainment]; ticket information services for entertainment events; ticket information services for shows; ticket procurement services for entertainment events; ticket reservation and booking services for music concerts; virtual reality game services provided on-line from a computer network; video entertainment services; ticketing and event booking services; ticket reservation for cultural events; ticket reservation and booking services for entertainment events; ticket reservation and booking services for cultural events; arranging of presentations for entertainment purposes; provision of entertainment information; providing online electronic publications, not downloadable; production of video and/or sound recordings; publishing services; publishing by electronic means; digital video, audio and multimedia entertainment publishing services; electronic publications (not

downloadable); providing on-line videos, not downloadable; provision of entertainment services through the media of video-films; seminars; arranging of contests; organising competitions; operating quizzes; arranging conferences; production of shows; musical performances; arranging and conducting award ceremonies; issuing of educational awards; hospitality services (entertainment); fan club services; advisory services relating to publishing; consultation services relating to the publication of books; consultation services relating to the publication of magazines; editing of printed matter containing pictures, other than for advertising purposes; electronic desktop publishing; electronic online publication of periodicals and books; electronic publication of texts and printed matter, other than publicity texts, on the Internet; electronic text publishing services; multimedia entertainment software publishing services; multimedia publishing; multimedia publishing of magazines, journals and newspapers; multimedia publishing of newspapers; providing on-line electronic publications, not downloadable; providing on-line non-downloadable general feature magazines; providing on-line publications; publication of consumer magazines; publication of educational texts; multimedia publishing of electronic publications; multimedia publishing of magazines; news programming services for transmission across the internet; news reporters services; newspaper publication; on-line publication of electronic books and journals (non-downloadable); on-line publishing services; online publication of electronic newspapers; providing electronic publications; providing electronic publications from a global computer network or the Internet, not downloadable; providing publications from a global computer network or the internet which may be browsed; provision of electronic publications (not downloadable); Provision of video recording studio services; Publication and editing of printed matter; Publication of books relating to entertainment; Publication of educational and training guides; Publication of electronic magazines; Publication of electronic newspapers accessible via a global computer network; Publication of instructional literature; Publication of magazines; Publication of material which can be accessed from databases or from the internet; Publication of multimedia material online; Publication of printed matter and printed publications; Publication of printed matter in electronic form on the Internet; Publishing services (including electronic publishing services); Publishing of web magazines; Publishing of reviews; Publishing of magazines in electronic form on the

Internet; Publishing of electronic publications; Publishing a newspaper for customers on the Internet; Writing services for blogs; Writing and publishing of texts, other than publicity texts; Publication of online reviews in the field of entertainment; Provision of information relating to entertainment online from a computer database of the Internet; Providing online entertainment in the nature of game shows.

Class 42: *Design and development of computer hardware; Computer software design and development; software development; software design; Customized design of computer software; Customized design of computer hardware; Updating of computer software; design of Internet pages; hosting platforms on the Internet; designing websites for advertising purposes; Development of software; Updating Internet pages; Updating of home pages for computer networks; Creating and updating of home pages for computer networks; creating websites; maintenance of websites; hosting memory space on the Internet; Design and graphic arts design for the creation of web pages on the Internet; hosting websites on the Internet; hosting multimedia entertainment content; hosting multimedia educational content; hosting of interactive applications; hosting of multimedia applications; hosting of web portals; hosting of weblogs; hosting of podcasts; hosting of e-commerce platforms on the Internet; cross-platform conversion of digital content into other forms of digital content; design and creation of homepages and internet pages; hosting electronic memory space on the Internet for advertising goods and services; providing temporary use of non-downloadable software applications accessible via a web site; hosting online web facilities for others for sharing online content; providing temporary use of non-downloadable software to enable sharing of multimedia content and comments among users; interactive hosting services which allow the users to publish and share their own content and images online; Hosting of digital content, namely, on-line journals and blogs; providing temporary use of web-based applications; providing online non-downloadable software for use in communication.*

EUTM 16749087 ("the sixth earlier mark")

CONTENT BIBLE

Goods and services

Class 9: *Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking [supervision], life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus; Publications in electronic format; downloadable publications; downloadable electronic publications; online electronic publications downloadable from the Internet; publications in electronic form supplied online from databases or from facilities provided on the Internet (including web sites); electronic magazines; multi-media recordings and publications; printed publications in electronically readable form; computer software and programs; computer games; downloadable software; downloadable software applications; computer software downloadable from the Internet; application software; application software for mobile communication devices; Video games software; Interactive video game programs; Instruction manuals in electronic format; Encoded identity cards; Downloadable interactive entertainment software; Computer software for use in providing multiple user access to a global computer information network; data recorded in electronic, optical or magnetic form; data carriers; data storage media; memory cards; audio and/or video recordings; downloadable and streamable audio and/or video recordings; pre-recorded videos, CDs, CDIs, CD-ROMs, discs, cassettes and other data carriers containing information recorded in magazine form; Computer peripheral devices; keyboards, mice (data processing), trackballs for moving the cursor and wireless electronic controls, all for use with electronic apparatus for consumers; Data processing equipment; Remote controls; Computer keyboards; audio headphones and headsets for use with computers and video gaming; Downloadable video recordings; computer game programs; game programs for arcade video game machines; computer controllers, namely remote controls, computer joysticks, interactively controlled floor pads, steering wheels for video games, headphones, keyboards and mice (data processing), all for use with computers and video gaming software platforms; wireless mice (data processing)*

and remote controls for use with televisions, computers and set-top boxes (decoders); mouse pads; touch keys (touch pads); computer keyboard controllers; computer programs and software for use in conjunction with the provision of an interface (interface devices or interface programs for computers) between a computer and a peripheral apparatus; interactive user manuals sold as a units with the aforesaid goods; eyewear; glasses; spectacles; sunglasses; lenses; frames for spectacles and sunglasses; cases and boxes for spectacles and sunglasses; cords, straps and chains for spectacles and sunglasses; sports eyewear; eye protection wear for sports; glasses for sports; magnets; digital photograph frames; covers and cases for mobile phones, computers and personal electronic devices; parts and fittings for all the aforesaid goods.

Class 16: *Paper and cardboard; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paintbrushes; typewriters and office requisites [except furniture]; instructional and teaching material [except apparatus]; plastic materials for packaging; printers' type; printing blocks; printed matter; printed publications; magazines; journals; newsletters; periodicals and other printed publications; newspapers; books; brochures; leaflets; pamphlets; flyers; fact sheets; manuals; instructional teaching materials; printed training manuals; printed information and advisory materials; carrier bags; materials for packaging (not included in other classes); advertising publications; advertising signs of paper; pages downloaded from the Internet (in paper format); printed programmes; events programmes; guides; charts; maps; tickets; printed forms; certificates; gift vouchers; catalogues; prints and pictures; posters; trading cards; collectors' cards; stickers; transfers; decalcomanias; stencils; diaries; calendars; address books; albums; envelopes; labels; folders; binders; note books; paper; cardboard; paper articles; writing implements; pens; pencils; cases, boxes and holders for pens and pencils; bookmarks; bookends; paperweights; recipes; recipe books and cards; cookbooks all featuring recipes; printed visuals; business cards; cards; greeting cards; wrapping and packaging materials; gift wrap and packaging paper; gift bags and bags for packaging; gift tags; paper table linen; beer mats; paper flags and pennants; paper banners; parts and fittings for all the aforesaid goods.*

Class 35: *Advertising; business management; business administration; office functions; procurement services for others [purchasing goods and services for other businesses]; procurement services, namely content sourcing services for others; procurement of online content [copyrighted material] for others; outsourcing services in the nature of arranging the procurement of goods and services for others; advisory and consultancy services relating to the sourcing [procurement] of goods and services for others; procurement services, namely content [copyright material] discovery services for others; procurement services, namely content [copyright material] sourcing services for others; administrative services relating to the clearance of copyright material before use; business connection services; business networking services; business network matching services; business network matching services for connecting others with content [copyright material]; compilation of directories consisting of business contacts for networking, matching and connection purposes; promoting the goods and services of others through multimedia advertisements; rental of advertisement space and advertising materials; advertising via the Internet; provision of advertising space; provision of space on web sites for advertising goods and services; promotional and marketing services; operation and supervision of membership schemes; data processing; brand positioning services; preparation and presentation of audio visual displays for advertising purposes; providing and rental of advertising space on the internet; provision of computerised advertising services; dissemination of advertising and promotional materials; marketing advice; organisation of promotions using audio visual media; production of advertising films; promoting a series of films for others; design of advertising materials; design of advertising logos and slogans; design and production of advertisements; design and production of multimedia advertisements; advertisement for others on the Internet; arranging and placing of advertisements; providing marketing and advertising consultancy in the field of social media; producing promotional videotapes, video discs, and audio visual recordings; production of video recordings for advertising purposes; retail services and online retail services connected with the sale of publications in electronic format, downloadable publications, downloadable electronic publications, online electronic publications downloadable from the Internet, publications in electronic form supplied*

online from databases or from facilities provided on the Internet (including web sites), electronic magazines, multi-media recordings and publications, printed publications in electronically readable form, computer software and programs, computer games, downloadable software, computer software downloadable from the Internet, application software, application software for mobile communication devices; online retail services connected with the sale of publications of data recorded in electronic, optical or magnetic form, data carriers, data storage media, memory cards, audio and/or video recordings, downloadable and streamable audio and/or video recordings, pre-recorded videos, CDs, CDIs, CD-ROMs, discs, cassettes and other data carriers containing information recorded in magazine form; retail services and online retail services connected with the sale of paper, cardboard, bookbinding material, photographs, stationery, adhesives for stationery or household purposes, artists' materials, paintbrushes, typewriters, office requisites [except furniture], instructional and teaching material [except apparatus], plastic materials for packaging, printers' type, printing blocks, printed matter, publications, recipes, recipe books and cards, cookbooks all featuring recipes, pamphlets and leaflets; retail services and online retail services connected with the sale of charts, flyers, fact sheets, manuals, periodicals and other printed publications, instructional teaching materials, brochures, books, magazines, newsletters, printed training manuals, printed information and advisory materials, carrier bags, materials for packaging, calendars, advertising publications, advertising signs of paper or cardboard, printed visuals, business cards, events programmes and notebooks; information, advisory and consultancy services relating to all of the aforesaid services.

Class 38: *Telecommunications; communications services; broadcasting services; webcasting services; podcasting services; Audio broadcasting; Video broadcasting; Internet broadcasting services; Streaming of audio and video material via the internet; broadcasting via the Internet and other computer and communication networks; electronic communications services; broadcasting services and provision of telecommunication access to video and audio content provided via a video-on-demand service via the internet; Audio, video and multimedia broadcasting via the Internet and other communications networks; broadcasting, transmission, reception*

and other dissemination of text, messages, information, data, sound and images; providing a multimedia content and video sharing portal; electronic transmission of data, messages and information; Provision of telecommunication access to video content provided via the Internet; Transmission of videos, movies, pictures, images, text, photos, games, user-generated content, audio content, and information via the Internet; Providing user access to search engines; Provision of access to the internet for others; Communication by online blogs; Telecommunication services provided via platforms and portals on the Internet and other media; Provision of telecommunication access to video and audio content provided via an online video-on-demand service; Video-on-demand transmission services; Transmission of data, audio, video and multimedia files, including downloadable files and files streamed over a global computer network; receiving and exchanging of information, text, sounds, images, data and messages; communications by and/or between computers and computer terminals and computer networks; provision of access to computer databases for the retrieval, provision and display of information from a computer stored databank; provision of access to computer databases in the fields of social networking and online communities; electronic display of information, text, images, messages and data; online communication services; chat room services; providing on-line chat rooms and interactive discussion forums; providing user access to portals on the Internet; providing user access to platforms on the Internet; provision of online forums for communication on topics of general interest; provision of online forums relating to education and entertainment, music, fashion, films, food, careers, women, travel, sports, adventure and lifestyle; provision of online community forums for uploading, posting, storing, displaying, sharing, watching, viewing, playing, editing, downloading, receiving, electronically transmitting or otherwise providing electronic media, multimedia content, audio and video content, movies, music, games, photos, images, pictures, graphics, text, messages, information, data, news and user-generated content via the Internet and other computer and communication networks; electronic transmission of news and current affairs information; information, advisory and consultancy services relating to all of the aforesaid services.

Class 41: *Education; providing of training; entertainment; sporting and cultural activities; online education entertainment services; entertainment services provided via the Internet and other computer and communications networks; entertainment services featuring electronic media, multimedia content, audio and video content, movies, music, games, photos, images, pictures, graphics, text, messages, information, data, news and user-generated content provided via the Internet and other computer and communication networks; presentation of data, messages and documents for entertainment purposes; interactive information provided online via the Internet and other computer and communication networks relating to education, entertainment, music, films and sports; film studio services; film production services; film editing; film production for entertainment purposes; production of films for education purposes; showing of films; audio, film, video and television recording services; recording services; production of audio-visual recordings; production of sound and image recordings on sound and image carriers; production of audio-visual presentations; provision of audio and visual media via communications networks; interactive information provided online via the Internet and other computer and communication networks relating to news and entertainment in the fields of fashion, food, careers, travel, women's health and adventure sports; provision of entertainment information for accessing via communication and computer networks; providing non-downloadable electronic publications; providing online publications (not downloadable); providing online non-downloadable magazines; production of video recordings and sound recordings; production of webcasts; production of podcasts; publishing services; publication of magazines, books, texts and printed matter; publishing by electronic means; digital video, audio and multimedia entertainment publishing services; multimedia publishing of magazines, journals and news; provision of audio and/or visual material and games online (not downloadable); online publication of news and current affairs; electronic publications (not downloadable); providing on-line videos (non-downloadable); provision of entertainment services through the media of video-films; arranging, organising and conducting of games, contests, competitions, quizzes, awards, conferences, exhibitions, courses, seminars and events; organising, conducting and production of shows, displays and parties; arranging, organising, presentation and provision of concerts, live entertainment, musical performances; arranging and conducting*

award ceremonies; presentation of awards for achievement; arranging, organising and conducting of events for cultural and sporting purposes; organisation of sporting competitions and sports events; gaming services; hospitality services (entertainment); hospitality services, namely customer reception services (entertainment services), including provision of admission tickets for sporting or entertainment events; fan club services; information, advisory and consultancy services relating to all of the aforesaid services.

Class 42: *Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; providing online non-downloadable software; providing non-downloadable software to enable uploading, posting, storing, displaying, sharing, watching, viewing, playing, editing, downloading, receiving, publishing, distributing, streaming, reproducing, electronically transmitting or otherwise providing electronic media, multimedia content, audio and video content, movies, music, games, photos; images, pictures, graphics, text, messages, information, data, news and user-generated content via the Internet and other computer and communication networks; design consultancy; design of audio-visual creative works; consultancy services relating to the design of new creative projects; design and development of multimedia products; commercial design services; custom design services; computer-aided design services; graphic arts design services; artwork and typeface design services; new product design and development services; packaging design services; website and webpage design services; advertisement design services; design of brand names and trade marks; design of graphics and livery for corporate identity and advertisement projects; design of printed materials; illustration services; designing websites for advertising purposes; preparation of design parameters for visual images; design services for display systems for promotional purposes; planning, design, development and maintenance of online websites for third parties; enterprise content management services; content hosting services; hosting multimedia entertainment content; cross-platform conversion of digital content into other forms of digital content; hosting of multimedia content for others; hosting online web facilities for others for sharing online content; development of software for processing and distribution of*

multimedia contents; interactive hosting services which allow the users to publish and share their own content and images online; providing temporary use of non-downloadable software to enable content providers to track multimedia content; providing temporary use of non-downloadable software, programs and applications; providing on-demand software; providing temporary use of non-downloadable software to enable sharing of online content among users; providing temporary use of non-downloadable software applications for social and community networking; providing temporary use of non-downloadable software to enable uploading, posting, storing, displaying, sharing, watching, viewing, playing, editing, downloading, receiving, publishing, distributing, streaming, reproducing, electronically transmitting or otherwise providing electronic media, multimedia content, audio and video content, movies, music, games, photos, images, pictures, graphics; providing temporary use of non-downloadable software to enable text, messages, information, data, news and user-generated content via the Internet and other computer and communication networks; hosting online web facilities for others; hosting multimedia content for others; hosting electronic facilities for others for organising online groups and events, participating in online meetings and discussions, and enabling online community and social networking; website hosting and design services; maintenance of websites; electronic data storage; information, advisory and consultancy services relating to all of the aforesaid services.

Class 45: *Legal services; background investigation services; legal services relating to licensing; legal services relating to the procurement of licences; legal services relating to the clearance of copyright material before use; obtaining licences for others for the use of intellectual property rights; advisory services relating to the clearance of copyright material before use; granting of licences on intellectual property; legal services relating to the management, control and granting of licence rights; consultancy relating to copyright licensing; consultancy relating to copyright management; consultancy relating to copyright protection; consultancy relating to industrial property; consultancy relating to trademark licensing; copyright licensing agency services; copyright licensing [legal services]; copyright management; film, television, video, music and image licensing [legal services]; granting of licenses to others for the use of industrial property rights and copyright; information, advisory*

and consultancy services relating to legal matters; intellectual property consultancy; Internet-based social networking services; legal administration of licences; legal services relating to copyright licensing; legal services relating to the exploitation of industrial property rights and copyright; licensing authority services; licensing of intellectual property; licensing of intellectual property and copyright; licensing of intellectual property in the field of copyrights [legal services]; licensing services; management and exploitation of industrial property rights and copyright by licensing for others [legal services]; management of industrial property rights and copyright; on-line social networking services; registration of domain names for identification of users on a global computer network [legal service]; registration of domain names [legal services]; trade mark monitoring [legal services]; licence procurement services relating to the clearance of copyright material before use; information, advisory and consultancy services relating to all of the aforesaid services.