

O/1134/25

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00003915780
BY G&H AUTOMATION SERVICES LLC TO REGISTER:



AS A TRADE MARK IN CLASS 42

AND

IN THE MATTER OF THE OPPOSITION THERETO
UNDER NO. 442899 BY
GOOCH & HOUSEGO PLC

BACKGROUND AND PLEADINGS

1. On 25 May 2023, G&H Automation Services LLC (“the applicant”) applied to register the trade mark shown on the cover page of this decision in the UK (“the applicant’s mark”). The applicant’s mark was published on 9 June 2023 and registration is sought for the following services:

Class 42: Consulting services in the field of software as a service (SAAS); consulting services in the field of hosting computer software applications; consulting services in the field of providing online, non-downloadable software and applications; remote computer backup services; software design and development; software development and product development consulting in the field of workflow and process automation.; computer software consultancy; computer software consulting; computer software development; computer software development in the field of mobile applications; consulting services in the field of office and workplace automation; data automation and collection service using proprietary software to evaluate, analyze and collect service data; IT consulting services; technical consulting in the field of artificial intelligence (AI) software customization.

2. It is noted that, on the Trade Marks Register, the applicant’s mark has the description/limitation that “the mark consists of a cogwheel with four dots, one in each direction, and circuit lines intersecting it from all sides followed by the wording ‘G&H AUTOMATION SERVICES’.” Further, the Register sets out that the applicant disclaims the right to the exclusive use of the words “AUTOMATION SERVICES”.
3. On 6 September 2023, the applicant’s mark was opposed by Gooch & Housego PLC (“the opponent”). The opposition is based on sections 5(2)(b), 5(3) and 5(4)(a)

of the Trade Marks Act 1994 (“the Act”). Under the section 5(2)(b) and 5(3) grounds of opposition, the opponent relies on the following trade mark:

G&H

UK registration no. 914634431

Filing date 1 October 2015; registration date 28 March 2016

Registered for the goods and services set out in **Annex 1** of this decision.

(“the opponent’s mark”).

4. Under the section 5(2)(b) ground, the opponent relies on its class 9 goods and class 42 services only. The opponent claims that the marks at issue are closely similar and that the services applied for are identical or, in the alternative, similar to the goods and services relied upon. As a result, the opponent’s position is that there exists a likelihood of confusion on the part of the public.
5. Turning to the section 5(3) ground, the opponent claims that as a result of extensive use of its mark, it has established a significant reputation in all of the goods and services for which it is registered. It is claimed that due to this reputation and the similarity of the marks, it is likely that the relevant public will make an association between the marks and will assume an economic connection between them. As a result, the opponent claims that use of the applicant’s mark would result in the applicant being able to take unfair advantage of the distinctive character and repute of the opponent’s mark. Further, the opponent claims that use of the applicant’s mark will be detrimental to the reputation and/or distinctive character of its mark.
6. It is noted that under both the section 5(2)(b) and 5(3) grounds of opposition, the opponent gave a statement of use in respect of the mark for all of the goods and services relied upon.
7. Lastly, under the section 5(4)(a) ground, the opponent relies on the sign ‘G&H’ which it claims to have used throughout the UK since 1948 for the goods and

services set out in **Annex 2** of this decision. The opponent claims that it has acquired goodwill in the goods and services relied upon and, further, the closeness of the marks is such that use of the applicant's mark would amount to a misrepresentation to the relevant public that the applicants' services originate from the same or economically linked undertaking. It is claimed that this will result in a damage to the opponent's brand and business.

8. The applicant filed a counterstatement wherein it (1) requested that the opponent provide proof of use for its mark and (2) denied the claims against it.
9. The applicant is represented by Derek Onochie and the opponent is represented by Lawrie IP Limited. Only the opponent filed evidence. No hearing was requested and only the opponent filed written submissions in lieu of the same. This decision is taken after careful consideration of the papers.
10. 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.

EVIDENCE

11. The opponent's evidence came in the form of the witness statement of Mark Batzdorf dated 4 June 2024. Mr Batzdorf is the Vice President of Finance for the opponent. He has been employed by the opponent since 1 April 2011. His statement is accompanied by 13 exhibits, being MB1 to MB13, and was adduced in order to demonstrate genuine use of the opponent's mark, that its mark enjoys a reputation and that its business under the sign enjoys protectable goodwill.

12. I do not intend to summarise the opponent's evidence in full here (or its submissions, for that matter). 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

Proof of use

13. An earlier trade mark is defined in section 6 of the Act, the relevant parts of which state:

“(6)(1) In this Act an “earlier trade mark” means –

(a) a registered trade mark or international trade mark (UK) which has a date of application for registration earlier than that of the trade mark in question, taking account (where appropriate) of the priorities claimed in respect of the trade marks,

(aa) a comparable trade mark (EU) or a trade mark registered pursuant to an application made under paragraph 25 of Schedule 2A which has a valid claim to seniority of an earlier registered trade mark or protected international trade mark (UK) even where the earlier trade mark has been surrendered or its registration has expired;

(ab) a comparable trade mark (IR) or a trade mark registered pursuant to an application made under paragraph 28, 29 or 33 of Schedule 2B which has a valid claim to seniority of an earlier registered trade mark or protected international trade mark (UK) even where the earlier trade mark has been surrendered or its registration has expired.

[...]

(2) References in this Act to an earlier trade mark include a trade mark in respect of which an application for registration has been made and which, if registered, would be an earlier trade mark by virtue of subsection (1)(a) or (b), subject to its being so registered.”

14. Section 6A is also relevant. It reads:

“(1) This section applies where:

(a) an application for registration of a trade mark has been published,

(b) there is an earlier trade mark of a kind falling within section 6(1)(a), (aa) or (ba) in relation to which the conditions set out in section 5(1), (2) or (3) obtain, and

(c) the registration procedure for the earlier trade mark was completed before the start of the relevant period.

(1A) In this section “the relevant period” means the period of 5 years ending with the date of the application for registration mentioned in subsection (1)(a) or (where applicable) the date of the priority claimed for that application.

(2) In opposition proceedings, the registrar shall not refuse to register the trade mark by reason of the earlier trade mark unless the use conditions are met.

(3) The use conditions are met if –

(a) within the relevant period the earlier trade mark has been put to genuine use in the United Kingdom by the proprietor or with his

consent in relation to the goods or services for which it is registered,
or

(b) the earlier trade mark has not been so used, but there are proper reasons for non- use.

(4) For these purposes –

(a) use of a trade mark includes use in a form (the “variant form”) differing in elements which do not alter the distinctive character of the mark in the form in which it was registered (regardless of whether or not the trade mark in the variant form is also registered in the name of the proprietor), and

(b) use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.

(5)-(5A) [Repealed]

(6) Where an earlier trade mark satisfies the use conditions in respect of some only of the goods or services for which it is registered, it shall be treated for the purposes of this section as if it were registered only in respect of those goods or services.”

15. As the opponent’s mark is a comparable mark, paragraph 7 of Part 1, Schedule 2A of the Act is also relevant. It reads:

“7.— (1) Section 6A applies where an earlier trade mark is a comparable trade mark (EU), subject to the modifications set out below.

(2) Where the relevant period referred to in section 6A(3)(a) (the "five-year period") has expired before IP completion day—

(a) the references in section 6A(3) and (6) to the earlier trade mark are to be treated as references to the corresponding EUTM; and

(b) the references in section 6A(3) and (4) to the United Kingdom include the European Union.

(3) Where [IP completion day] falls within the five-year period, in respect of that part of the five-year period which falls before IP completion day —

(a) the references in section 6A(3) and (6) to the earlier trade mark are to be treated as references to the corresponding EUTM; and

(b) the references in section 6A to the United Kingdom include the European Union”.

16. Section 100 of the Act is also relevant. It reads:

“100. If in any civil proceedings under this Act a question arises as to the use to which a registered trade mark has been put, it is for the proprietor to show what use has been made of it.”

17. Given its earlier filing date, the opponent’s mark qualifies as an earlier trade mark under the above provisions. The opponent’s mark completed its registration process more than five years prior to the filing date of the applicant’s mark. As above, the applicant requested proof of use for the opponent’s mark meaning that it is subject to the use provisions.

18. In *easyGroup Ltd v Nuclei Ltd & Ors* [2023] EWCA Civ 1247, Arnold LJ summarised the law relating to genuine use as follows:

“105. The principles applicable to determining whether there has been genuine use of a trade mark have been considered by the CJEU in a considerable number of cases, the principal decisions being Case C-40/01 *Ansul BV v Ajax Brandbeveiliging BV* [2003] ECR I-2439, Case C-259/02 *La Mer Technology Inc v Laboratories Goemar SA* [2004] ECR I-1159, Case C-416/04 *P Sunrider Corp v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [2006] ECR I-4237, Case C-442/07 *Verein Radetsky-Order v Bunderversvereinigung Kamaradschaft 'Feldmarschall Radetsky'* [2008] ECR I-9223, Case C-495/07 *Silberquelle GmbH v Maselli-Strickmode GmbH* [2009] ECR I-2759, Case C-149/11 *Leno Merken BV v Hagelkruis Beheer BV* [EU:C:2012:816], Case C-609/11 *Centrotherm Systemtechnik GmbH v Centrotherm Clean Solutions GmbH & Co KG* [EU:C:2013:592], Case C-141/13 *P Reber Holding & Co KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [EU:C:2014:2089], Case C-689/15 *W.F. Gözze Frottierweberei GmbH v Verein Bremer Baumwollbörse* [EU:C:2017:434] and Joined Cases C-720/18 and C-721/18 *Ferrari SpA v DU* [EU:C:2020:854].

106. Ignoring issues which do not arise in the present case, such as use in relation to spare parts or second-hand goods and use in relation to a sub-category of goods or services, the principles may be summarised as follows:

(1) Genuine use means actual use of the trade mark by the proprietor or by a third party with authority to use the mark: *Ansul* at [35] and [37].

(2) The use must be more than merely token, that is to say, serving solely to preserve the rights conferred by the registration of the mark: *Ansul* at

[36]; *Sunrider* at [70]; *Verein* at [13]; *Centrotherm* at [71]; *Leno* at [29]; *Ferrari* at [32].

(3) The use must be consistent with the essential function of a trade mark, which is to guarantee the identity of the origin of the goods or services to the consumer or end user by enabling him to distinguish the goods or services from others which have another origin: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Silberquelle* at [17]; *Centrotherm* at [71]; *Leno* at [29]; *Gözze* at [37], [40]; *Ferrari* at [32].

(4) Use of the mark must relate to goods or services which are already marketed or which are about to be marketed and for which preparations to secure customers are under way, particularly in the form of advertising campaigns: *Ansul* at [37]. Internal use by the proprietor does not suffice: *Ansul* at [37]; *Verein* at [14]. Nor does the distribution of promotional items as a reward for the purchase of other goods and to encourage the sale of the latter: *Silberquelle* at [20]-[21]. But use by a non-profit making association can constitute genuine use: *Verein* at [16]-[23].

(5) The use must be by way of real commercial exploitation of the mark on the market for the relevant goods or services, that is to say, use in accordance with the commercial *raison d'être* of the mark, which is to create or preserve an outlet for the goods or services that bear the mark: *Ansul* at [37]-[38]; *Verein* at [14]; *Silberquelle* at [18]; *Centrotherm* at [71].

(6) All the relevant facts and circumstances must be taken into account in determining whether there is real commercial exploitation of the mark, including: (a) whether such use is viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods and services in question; (b) the nature of the goods or services; (c) the characteristics of the market concerned; (d) the scale and frequency of use

of the mark; (e) whether the mark is used for the purpose of marketing all the goods and services covered by the mark or just some of them; (f) the evidence that the proprietor is able to provide; and (g) the territorial extent of the use: *Ansul* at [38] and [39]; *La Mer* at [22]-[23]; *Sunrider* at [70]-[71], [76]; *Centrotherm* at [72]-[76]; *Reber* at [29], [32]-[34]; *Leno* at [29]-[30], [56]; *Ferrari* at [33].

(7) Use of the mark need not always be quantitatively significant for it to be deemed genuine. Even minimal use may qualify as genuine use if it is deemed to be justified in the economic sector concerned for the purpose of creating or preserving market share for the relevant goods or services. For example, use of the mark by a single client which imports the relevant goods can be sufficient to demonstrate that such use is genuine, if it appears that the import operation has a genuine commercial justification for the proprietor. Thus there is no *de minimis* rule: *Ansul* at [39]; *La Mer* at [21], [24] and [25]; *Sunrider* at [72]; *Leno* at [55].

(8) It is not the case that every proven commercial use of the mark may automatically be deemed to constitute genuine use: *Reber* at [32].”

19. Section 6A of the Act (cited above) sets out that the relevant period for the present assessment is the five-year period prior to the filing date of the applicant’s mark, being 25 May 2023. The relevant period is, therefore, 26 May 2018 to 25 May 2023 (“the relevant period”).

20. Proven use of a mark which fails to establish that “the commercial exploitation of the mark is real”¹ because the use would not be “viewed as warranted in the economic sector concerned to maintain or create a share in the mark for the goods or services protected by the mark” is, therefore, not genuine use.

¹ *Jumpman* BL O/222/16

Evidence of use

21. Having considered the evidence, I am of the view I can deal with the issue of whether the opponent's mark has been used swiftly. I do so because the opponent's evidence includes the following table with regards to its significant revenue figures between 2018 and 2023:²

Year	Revenue (£m)
2018	124.9
2019	129.1
2020	122.1
2021	124.1
2022	124.8
2023	148.5
Total	773.5

22. In considering the above, I wish to make two brief points. First, the relevant period for the present assessment starts and concludes in May of 2018 and 2023, respectively, meaning that a proportion of the figures for those years is likely to fall outside of the relevant period. Second, the above revenue relates to the opponent's global turnover.³ In respect of the latter point, I do note that the opponent has filed a report that shows an analysis of revenue by destination⁴ which shows that the UK revenue in 2022 and 2023 was £27,848,000 and £27,309,000, respectively. Therefore, while the total revenue of £773,500,000 cannot be said to be wholly applicable to the UK, it is clear from the aforementioned report that (even though it covers just two years) the opponent does attract a significant revenue in the UK.

² I note that in addition to a table in the narrative evidence, the opponent has provided excerpts from its annual reports at MB12

³ I say this because the reports provided alongside this evidence make reference to A&D contracts in the USA and, further, the narrative evidence makes reference to the fact that the opponent operates not only in the UK but in the USA and China.

⁴ See MB8 at page 43

23. While I am satisfied that there has been genuine use of the opponent's mark during the relevant period, the nature of the evidence is such that I do not consider that this finding applies to the breadth of the opponent's specification.⁵ As such, I am required to conduct an assessment in respect of the fair specification of the opponent's mark.

Fair specification

24. In considering the issue of a fair specification, I refer to the case of *Euro Gida Sanayi Ve Ticaret Limited v Gima (UK) Limited*, BL O/345/10, wherein Mr Geoffrey Hobbs Q.C. as the Appointed Person summed up the law as being:

“In the present state of the law, fair protection is to be achieved by identifying and defining not the particular examples of goods or services for which there has been genuine use but the particular categories of goods or services they should realistically be taken to exemplify. For that purpose the terminology of the resulting specification should accord with the perceptions of the average consumer of the goods or services concerned.”

25. In addition, I refer to the Court of Appeal decision in *Merck KGaA v Merck Sharp & Dohme Corp & Ors* [2017] EWCA Civ 1834 wherein the proper approach to partial revocation was set out as follows:

“245. First, it is necessary to identify the goods or services in relation to which the mark has been used during the relevant period.

⁵ It is noted that the opponent's submissions, at paragraph 54, set out that the applicant did not file any evidence in reply to its proof of use evidence. While that is the case, I will say for the avoidance of doubt that this does not automatically mean that I must accept the evidence as covering all terms relied upon.

246. Secondly, the goods or services for which the mark is registered must be considered. If the mark is registered for a category of goods or services which is sufficiently broad that it is possible to identify within it a number of subcategories capable of being viewed independently, use of the mark in relation to one or more of the subcategories will not constitute use of the mark in relation to all of the other subcategories.

247. Thirdly, it is not possible for a proprietor to use the mark in relation to all possible variations of a product or service. So care must be taken to ensure this exercise does not result in the proprietor being stripped of protection for goods or services which, though not the same as those for which use has been proved, are not in essence different from them and cannot be distinguished from them other than in an arbitrary way.

248. Fourthly, these issues are to be considered having regard to the perception of the average consumer and the purpose and intended use of the products or services in issue. Ultimately it is the task of the tribunal to arrive at a fair specification of goods or services having regard to the use which has been made of the mark.

249. This approach does strike an appropriate balance. It gives effect to the clear intention of the EU legislature that marks must actually be used or, if not used, be subject to revocation. [...] It is also fair to proprietors for it does not require a proprietor to prove that he has used his mark in relation to all possible variations of the goods or services covered by its registration but only those which are sufficiently distinct to constitute coherent categories or subcategories. I am also satisfied that it gives appropriate protection to the legitimate interest of a proprietor in being able in the future to extend his range of goods or services within the scope of the terms describing the goods or services for which its mark is registered.”

26. Lastly, in *Property Renaissance Ltd (t/a Titanic Spa) v Stanley Dock Hotel Ltd (t/a Titanic Hotel Liverpool) & Ors* [2016] EWHC 3103 (Ch) at [47], the late Carr J pointed out that it is not the task of the court to describe the use made by the trade mark proprietor in the narrowest possible terms unless that is what the average consumer would do; for example, in *Pan World Brands v Tripp Ltd (Extreme Trade Mark)* [2008] RPC 2, it was held that use in relation to holdalls justified a registration for luggage generally.

27. As set out above, the opponent's operates a large business operation and while this seemingly covers many different sectors, the evidence is somewhat unfocused as to precisely what it is that the opponent provides as goods or services. This is compounded by the technical nature of the evidence filed and the lack of any actual explanations as to what goods and services are provided.⁶ Having considered the evidence, and bearing in mind that I do not profess to be an expert in the fields in which the opponent operates, I have identified the following goods and services as those that the opponent provides:

- a. Industrial lasers, semiconductors for lithography, fibre optic and acousto-optic components, sub-assemblies for use in remote sensing and scientific research, the largest proportion of which being nuclear fusion research and energy;⁷
- b. Components for use in the core of high reliability systems in the aviation, space, biomedical and telecommunication industries;⁸
- c. Life science medical research;⁹
- d. Pockel cells used in medical lasers for skin and other treatments and optical amplifiers;¹⁰
- e. An acousto-optic modulator;¹¹

⁶ On this point, I note that the submissions filed offer no assistance as to what use covers the various terms in the opponent's specification.

⁷ See MB4 at page 25

⁸ See MB2 at page 18

⁹ See MB5 at page 27 and MB6 at page 29

¹⁰ See MB6 at page 29

¹¹ See MB6 at page 32

- f. Navigation apparatus for airborne and spaceborne travel including precision optical component, fibre-optic couples, ring laser gyroscopes, fibre optic components;¹²
- g. A DFB laser source, fused couple, optical modulator, optical amplifier, optical frequency shifter, receiver subsystem, collimator and beam expander;¹³
- h. Beamsplitters and wave plates;¹⁴
- i. Products in relation to optical conference tomography systems including an optical delay line, polarization diverse receiver, collimator for OCT interferometers;¹⁵ and
- j. Periscopes for tanks.¹⁶

28. I am of the view that the presence of the above goods and services in the evidence together with the level of the opponent's revenue is such that it allows me to reach a conclusion that it is reasonable to infer that there has been genuine use for all of the above. In respect of this point, I do consider it necessary to point out that while some of the opponent's goods may be used alongside or be controlled by software, I cannot see anywhere in the evidence that shows that the opponent actually provides items of software with a view to creating or preserving a market share for the same.¹⁷

29. Plainly, the goods and services listed above are of a highly technical nature and as I have no explanation from the opponent, I have essentially been left to make this determination unassisted. Further, given the length and technical nature of the specification at issue, I do not consider it appropriate to go over each and every term and explain why I consider genuine use has or has not been shown. Instead, I will simply set out the goods and services that I consider use has been shown for,

¹² See MB7 at page 37

¹³ See MB7 at page 38

¹⁴ See MB7 at page 39

¹⁵ See MB7 at page 40

¹⁶ See MB12 at page 57

¹⁷ If it did so, then I consider it reasonable to suggest that the opponent should have pointed to specific example of use for such goods.

limiting them accordingly where appropriate. As a result, the following reflects what I consider to be a fair specification of the use shown in evidence:

Class 7

Machines and machine components for use in manufacturing in the aerospace, defence, industrial, life sciences and scientific research sectors; machine coupling and transmission apparatus.

Class 9

Scientific and optical, apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; pockels cells; pockels cell holders; voltage-controlled waveplates; components of electro-optic modulators; optical components and systems, including lenses, prisms, filters and mirrors; optical apparatus and instruments; optical materials; non-linear optical materials; glassware for scientific use; acoustic devices, apparatus and systems; radio frequency and high voltage electronic devices, apparatus and systems; acousto-optic devices and systems; acousto-optic apparatus and instruments; electro-optic devices and systems; electro-optic apparatus and instruments; electronic coatings; coatings for optical components; optical sources; optical sensors; optical beam deflectors; modulators; light measurement apparatus and instruments; measurement systems; remote sensing apparatus and systems; lasers and laser systems; laser controllers; detectors; lenses for transmission and imaging; imaging components in class 9, apparatus and systems; fibre optic components, devices and systems; telecommunications components, devices, apparatus and systems; pockels cells, pockels cell holders, voltage-controlled waveplates, and components of electro-optic modulators for use in machines and machine tools; pockels cells, pockels cell holders, voltage-controlled waveplates, and components of electro-optic modulators for use in medical apparatus and instruments; parts and fittings for all of the aforesaid goods.

Class 10

Medical apparatus and instruments; optical components for medical diagnostic use; optical sources for medical use; lasers for medical purposes; diagnostic imaging apparatus for medical use; optical imaging apparatus for medical use; optical sources and apparatus for therapeutic applications; apparatus for medical analysis and medical purposes; parts and fittings for all of the aforesaid goods.

Class 40

Treatment of precision optical surfaces; treatment of glass, crystal quartz, optical glasses, and fused silica; crystal bonding; custom manufacture and assembly services; assembly of products for others; adhesive-free bonding process for the assembly of parts, fittings, and components; adhesive-free bonding process for precision optical surfaces.

Class 42

Research services relating to the manufacture, design and calibration of optical, acoustic, electronic, acousto-optic and electro-optic devices, apparatus and systems, fibre-optic devices, lasers and imaging apparatus and systems.

Class 44

Medical diagnostic services.

Section 5(2)(b): legislation and case law

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

“(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 or association with the earlier trade mark.”

31. Section 5A of the Act states as follows:

“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.”

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

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

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the

imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

- (c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;
- (d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;
- (e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;
- (f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;
- (g) a lesser degree of similarity between the goods or services may be offset by a great degree of similarity between the marks, and vice versa;
- (h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has been made of it;
- (i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;

- (j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense;
- (k) if the association between the marks creates a risk that the public might believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

Comparison of goods and services

33. The applicant's services are set out at paragraph 1 above. The opponent's goods and services have been limited following a genuine use assessment. Those goods and services are set out at paragraph 29 above and I remind myself that only those goods and services in classes 9 and 42 are relevant to the present ground.

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

"Those factors include, inter alia, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary".

35. The relevant factors identified by Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, for assessing similarity were:

- (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.

36. The opponent has filed submissions in respect of the goods and services comparison. While this is noted, it is based on the entirety of the opponent's specification which it is not permitted to rely on. This is an issue here because the submissions focus on the opponent's software goods/services, which it has not shown genuine use for. Further, even when considered in full, the submissions are very vague in that, after discussing the identity/similarity in reliance upon goods/services there has been no genuine use for, the opponent turns to the remaining services of the applicant and simply submits that they "would be seen as either similar or complementary to those goods and services of the Opponent", without giving any explanation as to why. Such submissions are of very little probative value and, therefore, I do not consider that they are of any real assistance here.

Class 42

Consulting services in the field of software as a service (SAAS); consulting services in the field of hosting computer software applications; consulting services in the field of providing online, non-downloadable software and applications; remote computer

backup services; software design and development; software development and product development consulting in the field of workflow and process automation; computer software consultancy; computer software consulting; computer software development; computer software development in the field of mobile applications; consulting services in the field of office and workplace automation; data automation and collection service using proprietary software to evaluate, analyze and collect service data; IT consulting services; technical consulting in the field of artificial intelligence (AI) software customization.

37. While the opponent's mark includes a class 42 service, this is "research services relating to the manufacture, design and calibration of optical, acoustic, electronic, acousto-optic and electro-optic devices, apparatus and systems, fibre-optic devices, lasers and imaging apparatus and systems". Plainly, this is a very specific service that relates to the design and development of technical products. The above terms of the applicant cover a range of services relating to software or IT. The parties' services are clearly different in nature, method of use and purpose to each other. In addition, I am of the view that the provider of the above services would not typically provide the services of the opponent and, on this point, I have nothing before me in evidence to suggest otherwise. As such, I am not willing to conclude that there is an overlap in trade channels between the parties' services. In respect of user, given the disparate nature/purpose of the parties' goods, I see no reason why there would be any obvious overlap here. Lastly, the services are not in competition and neither are they complementary to each other. As a result of the above, I find that the above services of the applicant are dissimilar to the opponent's class 42 services.

38. For the avoidance of doubt, I am of the view that the above findings also apply when the applicant's services are compared to any of the opponent's goods in the class 9 list of its specification (being the only other goods relied upon under the present ground).

39. In order for there to be a likelihood of confusion under section 5(2)(b) of the Act, a level of similarity between goods and services is required.¹⁸ Therefore, in light of my above findings, the present ground fails in its entirety.

Section 5(3)

40. 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.”

41. 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.

¹⁸ See paragraph 49 of *eSure Insurance v Direct Line Insurance*, [2008] ETMR 77 CA

(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*).

42. The conditions of section 5(3) are cumulative. Firstly, the opponent must show that the marks at issue are similar. Secondly, the opponent must show that its mark has achieved a level of knowledge/reputation amongst a significant part of the public throughout the relevant territory. 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. 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 goods or 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.

Reputation

43. While I have not provided a detailed summary of the entirety of the opponent's evidence, I remind myself that it has demonstrated a very large global turnover and that a sizeable proportion of that is attributable to the UK. On this point, I refer to the fact that the opponent's UK turnover in 2022 and 2023 was £27.3 and £27.8 million, respectively. This is plainly a large level of use; however, it is not broken down in any way. This is an issue for the opponent given the wide variety of goods and services covered by its evidence. I appreciate that when considering the issue of genuine use, I made a rather generous inference on the opponent's behalf in granting use for a wide range of goods and services. Under the present ground, however, I do not consider it necessarily follows that I should make a similar inference here that the opponent enjoys a reputation in those same goods and services. I say this because the test for proving the existence of a reputation is far more onerous than that for genuine use. As such, under the present assessment, it is not possible for me to determine how much of the large turnover is attributable to the wide range of technical goods and services covered. While I appreciate that there may be some use across the breadth of the goods/services, I have nothing to assist in concluding that this level of use is sufficient to point to the existence of a reputation which, again, is a higher level than that for genuine use.

44. Despite what I have said above, and for reasons that will become obvious below, I will proceed on the basis that the opponent does enjoy a reputation in the same goods and services for which genuine use was shown. In doing so, I will say that the lack of detail in the evidence is such that it only allows me to conclude that the opponent's reputation is moderate in strength.

Link

45. As noted above, my assessment of whether the public will make the required mental 'link' between the marks must take account of all relevant factors. The factors identified in *Intel* are:

The degree of similarity between the conflicting marks.

46. The opponent's mark is 'G&H', presented in plain text. There are no additional points that contribute to the overall impression of the mark, which lies in this element itself. The applicant's mark is figurative and consists of the element 'G&H' followed by the words 'AUTOMATION SERVICES'. Sitting at the beginning of the mark is a figurative circular device. The mark is in greyscale with the device being different shades of grey, the 'G&H AUTOMATION' elements in dark grey and 'SERVICES' in a lighter grey. While 'G&H AUTOMATION' are presented in the same shade of grey, I consider that, for reasons I will come to discuss below, 'AUTOMATION' will be given lesser weight than 'G&H'. Overall, I consider that the overall impression of the mark will be dominated by the 'G&H' element, with the device (despite being at the beginning) and the words 'AUTOMATION SERVICES' playing lesser roles. In respect of the applicant's mark, I note that while the applicant has disclaimed any exclusive rights in the words 'AUTOMATION SERVICES', they still form a part of the mark so are not to be discounted from the following comparison.

47. In comparing the marks visually, they both include the element 'G&H', which is the sole element of the opponent's mark and is the first verbal element of the applicant's mark.¹⁹ All other elements present in the applicant's mark have no counterpart in the opponent's mark and while they play lesser roles, they are still point of visual differences. Overall, I find that as 'G&H' sits towards the beginning

¹⁹ On this point, and as per *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02, the beginnings of marks tend to have more visual and aural impact than their ends.

of the applicant's mark and is its stronger element, the marks are visually similar to a medium degree.

48. Aurally, the opponent's mark will be pronounced as 'G AND H'. The same applies to the first verbal element of the applicant's mark, which will be followed by the words AUTOMATION SERVICES that will be pronounced in the ordinary way.²⁰ In comparing the marks, they begin with the identical three syllables, G&H, which is a considerable point of similarity between them. That being said, the length of the points of difference in the applicant's mark (being seven syllables in length) will not go unnoticed, rendering the marks, as wholes, aurally similar to a medium degree.

49. Conceptually, the element 'G&H' (which is present in both marks) has no obvious meaning outside of being two letters separated by an ampersand. As such, this element is not capable of conceptual comparison. This leaves the words 'AUTOMATION SERVICES' in the applicant's mark as being the only element across the parties' marks that carries an identifiable concept. These will be viewed as an indication that the offerings under the applicant's mark are services that relate to automation. While not a compelling concept from a trade mark perspective, it is still a point of difference between the marks and as this is the only identifiable concept that stems from them, it results in a finding that the marks are conceptually dissimilar.

The nature of the goods or services for which the conflicting marks are registered, or proposed to be registered, including the degree of closeness or dissimilarity between those goods or services, and the relevant section of the public.

50. While only the class 9 and class 42 goods and services of the opponent formed the basis of my comparison under the section 5(2)(b) ground above, I see no reason why reliance on the additional goods and services under this ground brings

²⁰ While AUTOMATION SERVICES may be descriptive, they are not aurally invisible. See *Purity Hemp Company Improving Life as Nature Intended* (Case BL O/115/22)

the parties' specifications any closer together. I say this for the same reasons as set out in the comparison I conducted at paragraphs 37 and 38 above, I find that the parties' goods and services are entirely dissimilar. On this point, I also consider that the relevant public that selects the parties' goods and services will be distinct. I say this because the applicant's services all pertain to software, particularly the consultancy or development of the same whereas the opponent's reputed goods and services operate across several different industries, none of which overlap with the industry/sector the applicant operates in. As such, I see no reason to find that those that select the applicant's services would also form part of the relevant public for the opponent's goods or services.

The strength of the earlier mark's reputation.

51. The opponent's mark enjoys only a moderate reputation.

The degree of the earlier mark's distinctive character, whether inherent or acquired through use.

52. The opponent's mark consists solely of the element 'G&H'. As set out above, this has no meaning and, therefore, cannot be descriptive or allusive to the opponent's goods and services. That being said, the use of two single letters as an identifier (even if separated by an ampersand) is not particularly remarkable from a trade mark perspective. As a result, I find that the opponent's mark enjoys a medium degree of inherent distinctive character.

53. While the test for enhanced distinctiveness is different to the test for reputation, the factors relevant to both assessments are the same. Therefore, it is common in instances where all other factors are equal for the findings to be the same. Applying that logic here and given that I have proceeded on the basis that the opponent's evidence is sufficient to find that its mark enjoys a moderate reputation, then I should also find that it enjoys an enhanced degree of distinctive character, albeit

not to a significant degree. Overall, I consider that the opponent's mark enjoys a slightly higher than medium degree of distinctive character.

Whether there is a likelihood of confusion

54. Ordinarily, where there is no similarity between goods and services, there would be no likelihood of confusion. However, some marks are so distinctive and well known that there is likely to be some confusion almost irrespective of the goods or services on which the marks are used. While that may be the case, I do not consider that this applies here. Put simply, the reputation or distinctiveness that vests in the opponent's mark is not at such a degree that consumers would readily associate any use of the letters 'G&H' with the opponent, regardless of what goods and services they are viewed on. In the present case, and as explained above, the goods and services of the parties are so distinct that consumers would see no reason why the reputed 'G&H' brand would expand its business to cover a range of software consultancy or software development services, for example. As a result, even under the present ground (which allows for confusion where goods/services are dissimilar), I find that there is no likelihood of confusion.

Conclusion on link

55. Taking all of the above into account, I am of the view that despite the shared use of 'G&H' in both parties' marks and the moderate reputation and enhanced distinctive character of the opponent's marks, the distance between the parties' goods and services is just too great to overcome. As explained above, I see no reason why the relevant public who is aware of the opponent's mark and its reputation would see the applicant's mark and believe that it was associated with the opponent. Instead, I am of the view that consumers, upon seeing the marks, will simply believe that the applicant's mark is the responsibility of an unconnected and un-associated undertaking that operates under the letters 'G&H' in an entirely different field to that of the opponent.

56. Without the existence of a link, there can be no damage and, as such, the present ground fails in its entirety.

Section 5(4)(a)

57. Section 5(4)(a) of the Act states as follows:

“5(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”.

58. Subsection (4A) of section 5 of the Act 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.”

59. I can deal with this ground briefly. While the goods and services relied upon under the present ground are not the same as those I have discussed above, they do not

bring the opponent's field of business any closer to the applicant's. So while the opponent may benefit from a protectable level of goodwill in a similar range of goods and services as those relevant to the section 5(2)(b) and 5(3) grounds, the opponent's evidence does nothing to overcome the different fields of activity that the parties operate in. Under the present ground, I appreciate that misrepresentation and damage may be found where the parties operate in different fields of business. However, I remind myself that the case law sets out that the burden for overcoming this hurdle is a heavy one. On this point, I refer to the case of *Harrods Limited v Harrodian School Limited* [1996] RPC 697 (CA), in which Miller L.J. made the following findings in respect of different fields of activity:

“Where there is no or only a tenuous degree of overlap between the parties' respective fields of activity the burden of proving the likelihood of confusion and resulting damage is a heavy one. In *Stringfellow v. McCain Foods (G.B.) Ltd.* [1984] R.P.C. 501 Slade L.J. said (at page 535) that the further removed from one another the respective fields of activities, the less likely was it that any member of the public could reasonably be confused into thinking that the one business was connected with the other; and he added (at page 545) that

‘even if it considers that there is a limited risk of confusion of this nature, the court should not, in my opinion, readily infer the likelihood of resulting damage to the plaintiffs as against an innocent defendant in a completely different line of business. In such a case the onus falling on plaintiffs to show that damage to their business reputation is in truth likely to ensue and to cause them more than minimal loss is in my opinion a heavy one.’

In the same case Stephenson L.J. said at page 547:

‘...in a case such as the present the burden of satisfying Lord Diplock's requirements in the *Advocaat* case, in particular the fourth and fifth requirements, is a heavy burden; how heavy I am not sure the judge fully

appreciated. If he had, he might not have granted the respondents relief. When the alleged “passer off” seeks and gets no benefit from using another trader's name and trades in a field far removed from competing with him, there must, in my judgment, be clear and cogent proof of actual or possible confusion or connection, and of actual damage or real likelihood of damage to the respondents' property in their goodwill, which must, as Lord Fraser said in the *Advocaat* case, be substantial.’ ”

60. In light of the above, I find that the lack of evidence from the opponent in respect of the distinct fields of activity is fatal to the opponent's reliance on the present ground. Therefore, I conclude that the opponent has not discharged the burden alluded to in the case law cited above. As a result, and given everything I have said regarding the parties' goods and services throughout this decision, I find that the present ground fails.

CONCLUSION

61. The opposition fails in its entirety and the applicant's mark will, subject to any successful appeal of my decision, proceed to registration for all of the services applied for.

COSTS

62. The applicant has been successful and it is, therefore, entitled to a contribution towards its costs based upon the scale published in Tribunal Practice Notice 1/2023. While the applicant only filed a counterstatement during the course of these proceedings, I am of the view that it would have been required to review the opponent's evidence so I am content to make some costs award in respect of that task. In the circumstances, I award the applicant the sum of £550 as a contribution towards its costs. The sum is calculated as follows:

Considering a notice of opposition and preparing a counterstatement:	£250
Considering the opponent's evidence:	£300
Total:	£550

63. I hereby order Gooch & Housego PLC to pay G&H Automation Services LLPC the sum of £550. The above sum should 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 3rd day of December 2025

A COOPER
For the Registrar

ANNEX 1

Class 7

Machines and machine components for use in manufacturing in the aerospace, defence, industrial, life sciences and scientific research sectors; machine coupling and transmission apparatus.

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; pockels cells; pockels cell holders; voltage-controlled waveplates; components of electro-optic modulators; optical components and systems, including lenses, prisms, filters and mirrors; optical apparatus and instruments; optical materials; crystals used specifically for optical, acoustic and electronic applications; non-linear optical materials; glassware for scientific use; acoustic devices, apparatus and systems; radio frequency and high voltage electronic devices, apparatus and systems; acousto-optic devices and systems; acousto-optic apparatus and instruments; electro-optic devices and systems; electro-optic apparatus and instruments; electronic coatings; coatings for optical components; optical sources; optical sensors; optical beam deflectors; modulators; light measurement apparatus and instruments; measurement systems; remote sensing apparatus and systems; lasers and laser systems; laser controllers; detectors; lenses for transmission and imaging; imaging components in class 9, apparatus and systems; image processing software; fibre optic components, devices and systems; telecommunications components, devices, apparatus and systems; pockels cells, pockels cell holders, voltage-controlled waveplates, and components of electro-optic modulators for use in machines and machine tools; pockels cells, pockels cell holders, voltage-controlled waveplates, and components of electro-optic modulators for use in medical apparatus and instruments; computer software for use with the aforesaid goods; parts and fittings for all of the aforesaid goods.

Class 10

Medical apparatus and instruments; optical components for medical diagnostic use; optical sources for medical use; lasers for medical purposes; diagnostic imaging apparatus for medical use; optical imaging apparatus for medical use; optical sources and apparatus for therapeutic applications; apparatus for medical analysis and medical purposes; parts and fittings for all of the aforesaid goods.

Class 40

Treatment of precision optical surfaces; treatment of glass, crystal quartz, optical glasses, and fused silica; crystal bonding; custom manufacture and assembly services; assembly of products for others; adhesive-free bonding process for the assembly of parts, fittings, and components; adhesive-free bonding process for precision optical surfaces; information, consultancy, and advisory services for all of the aforesaid services.

Class 42

Scientific and technological services; engineering services; industrial analysis and research services; professional technology consultancy, research and design services relating to the manufacture, design and calibration of optical, acoustic, electronic, acousto-optic and electro-optic devices, apparatus and systems, fibre-optic devices, lasers and imaging apparatus and systems; design and development of computer programs for the foregoing goods; material testing services; chemical analysis services; measurement services; information, consultancy and advisory services relating to all of the aforesaid services.

Class 44

Medical services; pathology services; medical diagnostic services; information, consultancy and advisory services relating to all of the aforesaid services.

ANNEX 2

Goods

Machines and machine components for use in manufacturing in the aerospace, defence, industrial, life sciences and scientific research sectors; machine coupling and transmission apparatus; 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; pockels cells; pockels cell holders; voltage-controlled waveplates; components of electro-optic modulators; optical components and systems, including lenses, prisms, filters and mirrors; optical apparatus and instruments; optical materials; crystals used specifically for optical, acoustic and electronic applications; non-linear optical materials; glassware for scientific use; acoustic devices, apparatus and systems; radio frequency and high voltage electronic devices, apparatus and systems; acousto-optic devices and systems; acousto-optic apparatus and instruments; electro-optic devices and systems; electro-optic apparatus and instruments; electronic coatings; coatings for optical components; optical sources; optical sensors; optical beam deflectors; modulators; light measurement apparatus and instruments; measurement systems; remote sensing apparatus and systems; lasers and laser systems; laser controllers; detectors; lenses for transmission and imaging; imaging components in class 9, apparatus and systems; image processing software; fibre optic components, devices and systems; telecommunications components, devices, apparatus and systems; pockels cells, pockels cell holders, voltage-controlled waveplates, and components of electro-optic modulators for use in machines and machine tools; pockels cells, pockels cell holders, voltage-controlled waveplates, and components of electro-optic modulators for use in medical apparatus and instruments; computer software for use with the aforesaid goods; parts and fittings for all of the aforesaid goods; medical apparatus and instruments; optical components for medical diagnostic use; optical sources for medical use; lasers for medical purposes; diagnostic imaging apparatus for medical use; optical imaging apparatus for medical use; optical sources and

apparatus for therapeutic applications; apparatus for medical analysis and medical purposes; parts and fittings for all of the aforesaid goods.

Services

Treatment of precision optical surfaces; treatment of glass, crystal quartz, optical glasses, and fused silica; crystal bonding; custom manufacture and assembly services; assembly of products for others; adhesive-free bonding process for the assembly of parts, fittings, and components; adhesive-free bonding process for precision optical surfaces; information, consultancy, and advisory services for all of the aforesaid services; scientific and technological services; engineering services; industrial analysis and research services; professional technology consultancy, research and design services relating to the manufacture, design and calibration of optical, acoustic, electronic, acoustooptic and electro-optic devices, apparatus and systems, fibre-optic devices, lasers and imaging apparatus and systems; design and development of computer programs for the foregoing goods; material testing services; chemical analysis services; measurement services; information, consultancy and advisory services relating to all of the aforesaid services; medical services; pathology services; medical diagnostic services; information, consultancy and advisory services relating to all of the aforesaid services.