

**O/768/22**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF TRADE MARK APPLICATION**

**NO. 01467987 BY**

**ALPS ALPINE CO., LTD.**

**TO REGISTER THE TRADE MARK:**

**ALPS ALPINE**

**IN CLASSES 1-22, 27, 28, 35-42, 44 & 45**

**AND**

**OPPOSITION THERETO**

**UNDER NO. 418485**

**BY**

**ALKEMYGOLD LIMITED**

## Background & Pleadings

1. ALPS ALPINE CO., LTD. (“the applicant”) is the holder of the International Registration (“IR”) WO0000001467987 (“the designation”) in respect of the mark shown on the front page of this decision with a UK designation date on 25 December 2018. The IR was accepted and published in the Trade Marks Journal for opposition purposes on 16 August 2019 in relation to various goods and services in various Classes annexed to the end of this decision. Following the notifications from WIPO, I note that the applicant’s specification has been restricted in relation to Classes 9, 21, 35, 39 and 41.
2. Alkemygold Ltd (“the opponent”) opposes the application on the basis of Section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). In conjunction with the Section 5(2)(b) ground, this opposition was also initially based on other earlier rights under Sections 5(3) and 5(4)(a) of the Act against the contested mark. However, the Tribunal with a letter, dated 10 August 2021, informed the parties that the grounds of opposition were reduced to Section 5(2)(b) of the Act for the earlier right below as no evidence was filed by the opponent. Following the amendment of the Form TM7,<sup>1</sup> the opposition concerns only part of the applicant’s goods and services in Classes 9, 16, 35, 41, and 42, as follows:

**Class 9:** Computers; computer peripheral devices; computer programs; electronic dictionaries; computer programs for telecommunication; computer software for use with touch-sensing input devices; computer software for use with touch pads, touch panels and touch screens; prerecorded CDROMs; prerecorded DVDs; prerecorded magnetic data carriers; downloadable music files and audio files; sound recordings; downloadable image files and

---

<sup>1</sup> Following the direction of the Registry, issued with an official letter dated 8 April 2022, the opponent filed an amended TM7 particularising its claim on 21 April 2022.

video files; video recordings; visual and written data about magazines, books, newspaper, maps, photographs and drawings, downloadable; electronic publications, downloadable; exposed cinematographic films; exposed slide films.

**Class 16:** Printed matter; photographs [printed].

**Class 35:** Document reproduction; compilation of information into computer databases; retail services or wholesale services for printed matter.

**Class 41:** Provision of on-line videos and images, not downloadable; provision of on-line sound and music, not downloadable; providing electronic publications; services of reference libraries for literature and documentary records; book rental; none of the aforementioned services being in the field of education.

**Class 42:** Providing computer application software; software as a service [SaaS]; providing programs for computers and mobile phones; cloud computing.

3. The opponent is the proprietor of the UK registration number 3284228 for the following mark:

ALPS

4. The mark was filed on 22 January 2018 and registered on 06 July 2018 for the following goods and services:

**Class 9:** Computer software for use in the education sector; downloadable mobile applications all for use in the education sector.

**Class 16:** Printed publications; printed reports; educational books; printed educational materials; all the aforementioned being educational performance and data analysis for educational institutions all for use in the education sector.

**Class 41:** Educational consultancy services; publication services; online publication services; electronic publication services; training services in the field of educational performance and analysis; organisation of seminars and conferences.

5. For the purpose of this opposition, the opponent relies on all goods and services of the earlier mark.
6. The applicant filed an amended notice of defence and counterstatement denying the claims made. Also, the applicant claimed that there are “clear differences” between the respective goods and services rendering them being dissimilar.
7. Both parties filed written submissions in lieu of a hearing which will not be summarised but will be referred to as and where appropriate during this decision. No hearing was requested and so this decision is taken following a careful perusal of the papers.
8. In these proceedings, the opponent is represented by Haseltine Lake Kempner LLP and the applicant by Murgitroyd & Company.
9. Although the UK has left the EU, Section 6(3)(a) of the European Union (Withdrawal) Act 2018 requires tribunals to apply EU-derived national law in accordance with EU law as it stood at the end of the transition period. The provisions of the Trade Marks Act relied on in these proceedings are derived from an EU Directive. This is why this decision continues to make reference to the trade mark case law of EU courts.

## Decision

### Section 5(2)(b)

10. Section 5(2)(b) of the Act states:

“A trade mark shall not be registered if because-

[...]

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

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

11. The principles, considered in this opposition, stem from the decisions of the European 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 BV* (Case C-342/97), *Marca Mode CV v Adidas AG & Adidas Benelux BV* (Case C-425/98), *Matratzen Concord GmbH v Office for Harmonisation 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-334/05 P) and *Bimbo SA v OHIM* (Case C-519/12 P):

- 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 will wrongly 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**

- 12. When making the comparison, all relevant factors relating to the goods 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.”

- 13. 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.”

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

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

15. In *YouView TV Ltd v Total Ltd*, [2012] EWHC 3158 (Ch), paragraph 12, Floyd J (as he then was) gave the following guidance on construing the words used in specifications:

“[...] Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise: see the observations of the CJEU in Case C-307/10 *The Chartered Institute of Patent Attorneys (Trademarks) (IP TRANSLATOR)* [2012] ETMR 42 at [47]-[49]. Nevertheless, the principle should not be taken too far. Treat was decided the way it was because the ordinary and natural, or core, meaning of ‘dessert sauce’ did not include jam, or because the ordinary and natural description of jam was not ‘a dessert sauce’. Each involved a straining of the relevant language, which is incorrect. Where words or phrases in their ordinary and natural meaning are apt to cover the category of goods in question, there is equally no justification for straining the language unnaturally so as to produce a narrow meaning which does not cover the goods in question.”



16. 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.”

17. In *Avnet Incorporated v Isoact Limited*, [1998] F.S.R. 16, Jacob J. (as he then was) stated that:

“In my view, specifications for services should be scrutinised carefully and they should not be given a wide construction covering a vast range of activities. They should be confined to the substance, as it were, the core of the possible meanings attributable to the rather general phrase.”

18. The competing goods and services to be compared are shown in the following table:

<b>Opponent’s Goods &amp; Services</b>	<b>Applicant’s Goods &amp; Services</b>
<b>Class 9:</b> Computer software for use in the education sector; downloadable mobile applications all for use in the education sector.	<b>Class 9:</b> Computers; computer peripheral devices; computer programs; electronic dictionaries; computer programs for telecommunication; computer software for use with touch-sensing input devices; computer software for use with touch pads, touch panels and touch screens; prerecorded CDROMs; prerecorded DVDs; prerecorded magnetic data carriers; downloadable music files and audio files; sound recordings; downloadable image files and

	video files; video recordings; visual and written data about magazines, books, newspaper, maps, photographs and drawings, downloadable; electronic publications, downloadable; exposed cinematographic films; exposed slide films.
<b>Class 16:</b> Printed publications; printed reports; educational books; printed educational materials; all the aforementioned being educational performance and data analysis for educational institutions all for use in the education sector.	<b>Class 16:</b> Printed matter; photographs [printed].
	<b>Class 35:</b> Document reproduction; compilation of information into computer databases; retail services or wholesale services for printed matter.
<b>Class 41:</b> Educational consultancy services; publication services; online publication services; electronic publication services; training services in the field of educational performance and analysis; organisation of seminars and conferences.	<b>Class 41:</b> Provision of on-line videos and images, not downloadable; provision of on-line sound and music, not downloadable; providing electronic publications; services of reference libraries for literature and documentary records; book rental; none of the aforementioned services being in the field of education.
	<b>Class 42:</b> Providing computer application software; software as a service [SaaS]; providing programs for computers and mobile phones; cloud computing.

19. The opponent has made lengthy submissions which I have taken into account and will refer to where it is appropriate.

20. The applicant, in its notice of defence, denied similarity of the goods and services at issue. Nevertheless, in its submissions, the applicant admits that there is similarity to a low degree between the earlier and contested goods and services in Classes 9, 16, 41 and 42, but it maintains that the respective Class 35 services are dissimilar. In particular the applicant submitted the following:

“14. The earlier software and printed publication goods in Classes 9 and 16 are all to do with transmitting knowledge or fostering skills and character traits. These goods are all exclusively for use in the education sector and are therefore less likely to overlap with the Holder’s goods. Overall, we consider these earlier goods to be similar to the Holder’s goods in Classes 9, 16 and 42 to a low degree.

15. Likewise, none of the Holder’s services in Class 41 are “in the field of education”. Thus, these services, despite appearing in the same Class, can be largely distinguished from the Opponent’s earlier educational consultancy, training and seminar services in Class 41. Services such as “training services in the field of educational performance and analysis” would also be selected with a high degree of care and attention, not least because poor educational training will inevitably result in poor outcomes for the respective trainee. Overall, we consider the earlier services in Class 41 to be similar to the Holder’s services of the same Class to only a low degree.

16. The Holder’s services in Classes 35 are clearly dissimilar to those of the Opponent’s earlier mark. These services are of a different purpose and tend to be provided through different trade channels.”  
(sic)

21. The applicant concedes that there is low similarity between the respective goods and services in Classes 9, 16, 41 and 42. However, I find that the

contested terms in Class 9 “*computer programs for telecommunication; computer software for use with touch-sensing input devices; computer software for use with touch pads, touch panels and touch screens; visual and written data about magazines, books, newspaper, maps, photographs and drawings, downloadable; electronic publications, downloadable*” are broad terms covering the opponent’s goods in Class 9, namely “*Computer software for use in the education sector; downloadable mobile applications all for use in the education sector*”, and, thus, they are identical as per *Meric*. Likewise, the applicant’s goods in Class 16, namely “*Printed matter; photographs [printed]*” cover the opponent’s goods “*Printed publications; printed reports; educational books; printed educational materials; all the aforementioned being educational performance and data analysis for educational institutions all for use in the education sector*” in the same Class, rendering them *Meric* identical. Similarly, I find that the contested services in Class 41 “*Provision of on-line videos and images, not downloadable; provision of on-line sound and music, not downloadable*” are encompassed by the opponent’s “*online publication services*”; hence, I consider them to be *Meric* identical. I note that the contested term “*providing electronic publications*” in the same Class is ostensibly identical to the opponent’s “*electronic publication services*”. The remaining of the goods and services in the above Classes are similar to the opponent’s terms. Since the applicant has accepted similarity, I agree and consider the respective goods and services to be similar.

22. I will now turn to consider the contested services in Class 35.

#### *Document reproduction*

23. The contested services are intended for document reproduction, including photocopying, scanning, and printing services. I consider them to be similar to the opponent’s “*printed publication*” goods in Class 16. There is complementarity between the respective goods and services, as the opponent’s goods may be “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.”<sup>2</sup> Although the respective goods and services differ in nature and purpose, they may target the same users, thereby overlapping in trade channels. I find them to be similar to a low to medium degree.

Compilation of information into computer databases

24. The contested services are in relation to the compilation of computer databases. The opponent claims that: “[t]he software which the Earlier Trade Mark is protected will include database software and so these services are highly similar to those goods.” I agree with the opponent that the contested term is comparable with the opponent’s “*computer software for use in the education sector*” in Class 9. The services are offered by a provider to the end users, whereas the goods in Class 9 concern the physical products (software). I consider that the software is indispensable for the delivery of such services. I find that the respective goods and services are complementary as per *Kurt Hesse*. I find that the competing terms are similar to a low degree.

Retail services or wholesale services for printed matter

25. Before conducting the assessment of the contested services, I will set out some further applicable case law.
26. In *Oakley, Inc v OHIM*, Case T-116/06, at paragraphs 46-57, the General Court held that although retail services are different in nature, purpose, and method of use to goods, retail services for particular goods may be complementary to those goods, and distributed through the same trade channels, and therefore similar to a degree.

---

<sup>2</sup> See *Kurt Hesse v OHIM*, Case C-50/15 P.

27. In *Tony Van Gulck v Wasabi Frog Ltd*, Case BL O/391/14, Mr Geoffrey Hobbs Q.C. as the Appointed Person reviewed the law concerning retail services v goods. He said at paragraph 9 of his judgment that:

“The position with regard to the question of conflict between use of BOO! for handbags in Class 18 and shoes for women in Class 25 and use of MissBoo for the Listed Services is considerably more complex. There are four main reasons for that: (i) selling and offering to sell goods does not, in itself, amount to providing retail services in Class 35; (ii) an application for registration of a trade mark for retail services in Class 35 can validly describe the retail services for which protection is requested in general terms; (iii) for the purpose of determining whether such an application is objectionable under Section 5(2)(b), it is necessary to ascertain whether there is a likelihood of confusion with the opponent’s earlier trade mark in all the circumstances in which the trade mark applied for might be used if it were to be registered; (iv) the criteria for determining whether, when and to what degree services are ‘*similar*’ to goods are not clear cut.”

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

“i) Goods and services are not similar on the basis that they are complementary if the complementarity between them is insufficiently pronounced that, from the consumer’s point of view, they are unlikely to be offered by one and the same undertaking;

ii) In making a comparison involving a mark registered for goods and a mark proposed to be registered for retail services (or vice versa), it is necessary to envisage the retail services normally associated with

the opponent's goods and then to compare the opponent's goods with the retail services covered by the applicant's trade mark;

iii) It is not permissible to treat a mark registered for 'retail services for goods X' as though the mark was registered for goods X;

iv) The General Court's findings in *Oakley* did not mean that goods could only be regarded as similar to retail services where the retail services related to exactly the same goods as those for which the other party's trade mark was registered (or proposed to be registered)."

29. The contested services in Class 35 are provided with the aim of retailing or wholesaling for printed matter. The nature of the contested services here differs from the goods "*Printed publications*" in Class 16 in the earlier specification. The contested services are offered by a retailer or wholesale supplier for the sale and purchase of goods by the end users or businesses, whereas the opponent's goods are the physical products. Moreover, the method of use and purpose differentiates between the goods and the services in question. However, the ordinary method of retailing such goods creates a link where consumers are likely to believe that the same commercial undertaking could offer both the goods and the retail or wholesale services, based on the confines of the case law mentioned above. I also find that the complementarity in this case is sufficiently pronounced. Taking all these factors into consideration, there is a low degree of similarity between the respective goods and services.

### **Average Consumer and the Purchasing Act**

30. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purposes of assessing the likelihood of confusion, it must be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods and services in question: *Lloyd Schuhfabrik Meyer*, Case C-342/97. In *Hearst Holdings & Anor v A.V.E.L.A. Inc & Ors*, [2014] EWHC 439 (Ch),

at paragraph 70, Birss J (as he then was) described the average consumer in these terms:

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

31. In relation to the given goods in Classes 9 and 16, they will be purchased by members of the general public or professionals and businesses. Such goods are usually offered for sale in stores, brochures, catalogues, and online. The goods will be displayed on shelves in retail premises, where they will be viewed and self-selected by consumers. Similarly, for online stores, consumers will select the goods relying on the images displayed on the relevant web pages. Therefore, visual considerations will dominate the selection of the goods in question, but aural considerations will not be ignored in the assessment, as advice may be sought from a sales assistant or representative. The cost of the goods may vary, but in any case, and irrespective of the cost, the average consumer may examine the products to ensure they are fit for purpose, for example, whether the contents are relevant or whether there is software/hardware compatibility with other components or systems or that the goods possess the features they require. In this regard, the average consumer is likely to pay an average to a higher than average degree of attention, although not the highest, when selecting Class 9 and 16 goods.
32. The average consumer of the services in Classes 41 and 42, including “*Document reproduction; compilation of information into computer databases*” in Class 35, will more likely be businesses, albeit without excluding professionals and the general public completely. The services



are likely to be purchased both through visual inspection of promotional brochures and websites, and aural means, such as word-of-mouth recommendations. The average consumer will select the service provider based on reviews and suitability, while they may also consult the service provider before making the final decision. The cost of the services will be relatively significant, contributing to the selection process of the service provider. Given the more specialist nature of the services, especially those selected by business users, I consider that the average consumer will pay a slightly higher than average degree of attention in choosing the service provider.

33. As to the “*retail services or wholesale services for printed matter*” in Class 35, the average consumer will be the general public for the retail services and, more likely, business users for the wholesale services. The selection process will be based on factors such as availability of the desired product range, price, quantity, and quality. Primarily, the average consumer’s encounter with the given services will be on a visual level, such as signage on premises, promotional material, and website use. The process, therefore, will be primarily visual, but word of mouth or recommendations may also play a role. The degree of attention paid to the selection of a retailer will be average, taking into account commercial considerations. However, for wholesale services, the business users will pay an above average degree of attention in selecting the service provider owing to the importance of ensuring that the service meets the business requirements.


### **Comparison of Trade Marks**

34. 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.”

35. 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.

36. The marks to be compared are:

Earlier Mark	Contested Mark
ALPS	

### Overall Impression

37. The earlier word mark consists of the word “ALPS” presented in standard upper case and typeface. Registration of a word mark protects the word itself presented in any normal font irrespective of capitalisation.<sup>3</sup> Therefore, the overall impression of the mark lies in the word itself.

38. The contested mark consists of the conjoined word elements “ALPSALPINE” with highly stylised ‘A’ letters. Due to the stylisation and presentation of the contested mark, I do not rule out that a small minority of consumers may see the word elements “-LPSALPINE” with a figurative

---

<sup>3</sup> See *Bentley Motors Limited v Bentley 1962 Limited*, BL O/158/17, paragraph 16.

element at the beginning. It is my view that the overall impression of the contested mark lies in the unit formed by the conjoined words, with the stylisation of the 'A' letters/figurative elements making a roughly equal contribution in the overall impression.

### Visual Comparison

39. The contested mark consists of ten letters, whilst the earlier mark consists of four. I bear in mind that the beginnings of words tend to have more impact than the ends.<sup>4</sup> In this regard, I note that the competing marks have the same beginnings overlapping in the first four letters, where the entirety of the opponent's mark is included in the applicant's mark by virtue of the presence of the word element "ALPS-". However, there are points of visual difference. The contested mark differs in stylisation from the earlier mark, featuring two highly stylised 'A' letters and the additional word element "-ALPINE" that is absent from the earlier mark. Taking all the factors into account, including the overall impression, the respective marks are visually similar to a degree that is between low and medium. In the case of the small number of consumers, who will not recognise the letter 'A' at the beginning of the contested mark, I find that the visual similarity between the marks will be of a low degree.

### Aural Comparison

40. The earlier mark will be pronounced as "ALPS" and the contested mark "ALPS-AL-PINE". The earlier mark is a monosyllabic word, whilst the contested mark is three syllables long. The competing marks share only the first syllable, namely "ALPS-". Considering the above factors, there is aural similarity to a degree that is between low and medium. For completeness, I leave open the possibility that a minority of consumers

---

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

may verbalise the contested mark as “LPS-AL-PINE”. In that case, I find that there is low aural similarity between the respective marks.

### Conceptual Comparison

41. With their submissions, both parties have made contentions regarding the conceptual aspects of the respective marks. I note that the applicant admits that there is conceptual similarity between the respective marks by stating:

“24. Conceptually, the holder submits that the marks are similar to a moderate degree. This is because both marks generally refer to high mountains.”

42. I agree with the contentions of the parties and note that in relation to the common word element/component “ALPS/ALPS-“ the average consumer will attribute immediately and without the need for further reflection the concept of the large mountain range of the Alps. Further, I consider that the word component/element “-ALPINE” in the contested mark will be perceived as referring to the high mountains relating to the Alps. Thus, it will reinforce the meaning conveyed by the first word component/element “ALPS-” without modifying it. Thus, I find the marks to be conceptually highly similar.
43. Further, there may be a smaller number of consumers who will see the contested mark as “LPS-ALPINE” in which they will still conceptualise the word “-ALPINE” in the same way as advanced above, resulting in a low degree of conceptual similarity.

## Distinctive Character of the Earlier Trade Marks

44. In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*, Case C-342/97, paragraph 22 and 23, the CJEU stated that:

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

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).”

45. Registered trade marks possess varying degrees of inherent distinctive character from the very low, because they are suggestive of, or allude to, a characteristic of the goods or services, to those with high inherent distinctive character, such as invented words which have no allusive qualities.
46. As outlined in the previous section, the opponent’s word mark will be recognised as the large mountain range of the Alps. I note that the mark is

not descriptive or allusive of the goods and services. Thus, the distinctiveness of the word mark will be of an average degree.

### **Likelihood of Confusion**

47. In assessing the likelihood of confusion, I must adopt the global approach set out in the case law to which I have already referred above in this decision. Such a global assessment is not a mechanical exercise. I must also have regard to the interdependency principle, that a lesser degree of similarity between the goods or services may be offset by a greater degree of similarity between the marks, and vice versa.<sup>5</sup> It is essential to keep in mind the distinctive character of the opponent's trade mark since the more distinctive the trade mark, the greater the likelihood of confusion. I must also keep in mind that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon imperfect recollection.<sup>6</sup>
48. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other. Indirect confusion is where the consumer notices the differences between the marks but concludes that the later mark is another brand of the owner of the earlier mark or a related undertaking.
49. In *L.A. Sugar Limited v Back Beat Inc*, Case BL O/375/10, Iain Purvis Q.C., sitting as the Appointed Person, explained that:

“16. Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different

---

<sup>5</sup> See *Canon Kabushiki Kaisha*, paragraph 17.

<sup>6</sup> See *Lloyd Schuhfabrik Meyer*, paragraph 27.

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).”

I note that the categories identified above by Mr Purvis Q.C. are not exhaustive.<sup>7</sup>

50. In *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17, Mr James Mellor Q.C. (as he then was), as the Appointed Person, stressed that a

---

<sup>7</sup> *Thomson Hotels LLC v TUI Travel Amber E&W LLP* BL- O-440/14 at paragraph 29.

finding of indirect confusion should not be made merely because the two marks share a common element. In this connection, he pointed out that it is not sufficient that a mark merely calls to mind another mark. This is mere association not indirect confusion.

51. In *Whyte and Mackay Ltd v Origin Wine UK Ltd and Another* [2015] EWHC 1271 (Ch), Arnold J. considered the impact of the CJEU's judgment in *Bimbo*, on the court's earlier judgment in *Medion v Thomson*. He stated:

“18 The judgment in *Bimbo* confirms that the principle established in *Medion v Thomson* is not confined to the situation where the composite trade mark for which registration is sought contains an element which is identical to an earlier trade mark, but extends to the situation where the composite mark contains an element which is similar to the earlier mark. More importantly for present purposes, it also confirms three other points.

19 The first is that the assessment of likelihood of confusion must be made by considering and comparing the respective marks — visually, aurally and conceptually — as a whole. In *Medion v Thomson* and subsequent case law, the Court of Justice has recognised that there are situations in which the average consumer, while perceiving a composite mark as a whole, will also perceive that it consists of two (or more) signs one (or more) of which has a distinctive significance which is independent of the significance of the whole, and thus may be confused as a result of the identity or similarity of that sign to the earlier mark.

20 The second point is that this principle can only apply in circumstances where the average consumer would perceive the relevant part of the composite mark to have distinctive significance independently of the whole. It does not apply where the average consumer would perceive the composite mark as a unit having a different meaning to the meanings of the separate components. That includes the situation where the meaning of one of the components is



qualified by another component, as with a surname and a first name (e.g. BECKER and BARBARA BECKER).”

21 The third point is that, even where an element of the composite mark which is identical or similar to the earlier trade mark has an independent distinctive role, it does not automatically follow that there is a likelihood of confusion. It remains necessary for the competent authority to carry out a global assessment taking into account all relevant factors.”

52. The comments of Kitchin L.J. in *Comic Enterprises Ltd v Twentieth Century Fox Film Corporation* [2016] EWCA Civ 41, are also appropriate in this matter as he considered the relationship between the average consumer and the likelihood of confusion. He concluded that:

“34. [...] v) 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.”

53. Earlier in this decision I have concluded that:

- the goods and services at issue range from identical to similar to a low degree;
- the average consumer of the parties’ goods in Classes 9 and 16 will be members of the general public or professionals and businesses, who will select the goods by predominantly visual means, but without dismissing the aural means. The level of attention will normally be between average and a higher than average degree, although not the highest. As for the retail and wholesale services in Class 35, the average consumer will be the general public and business users, respectively, with the selection process conducted primarily at a visual level without dismissing aural considerations. The degree of attention will be average for the retail services, while

business users will pay an above average degree of attention for the wholesale services. In terms of the rest of the services, the average consumer will be businesses albeit without excluding professionals and the general public completely. The services are likely to be purchased both through visual inspection and aural means. In this occasion, the average consumer will pay a slightly higher than average degree of attention;

- the contested mark and the earlier mark are visually and aurally similar to a degree that is between low and medium, and conceptually highly similar;
- The earlier mark is inherently distinctive to an average degree.

54. The question is whether there is a likelihood of confusion amongst a significant proportion of the relevant public.<sup>8</sup>

**ALPSALPINE**

55. Nevertheless, I consider the marks would be indirectly confused. Having identified that the marks are different, the significant number of consumers in the UK will, in my view, assume that the respective marks originate from the same or economically linked undertakings. Due to the common use of the word “ALPS”, appearing at the beginning of the contested mark and having the same concept as in the earlier mark, the significant proportion of the consumers will consider the applicant’s mark to be a brand extension or a sub-brand of the opponent’s. This finding applies to all of the contested

---

<sup>8</sup> See Kitchin L.J. in *Comic Enterprises Ltd v Twentieth Century Fox Film Corporation* [2016] EWCA Civ 41 at paragraph 34.

goods and services I have found to be identical or similar, even when a higher than average degree of attention is employed by the average consumer and where the goods and/or services are lowly similar.

## **OUTCOME**

56. The opposition under Section 5(2)(b) of the Act is **successful in its entirety**. Therefore, subject to appeal, the application will be refused.

## **COSTS**

57. The opponent has been successful and is entitled to a contribution towards its costs. Awards of costs are governed by Annex A of Tribunal Practice Notice (TPN) 2/2016. I award costs to the opponent as a contribution towards the cost of the proceedings on the following basis:

Official opposition fee	<b>£100</b>
Preparing a statement and considering the counterstatement	<b>£200</b>
Filing written submissions in lieu	<b>£500</b>
Total	<b>£800</b>

58. I, therefore, order, ALPS ALPINE CO., LTD. to pay Alkemygold Ltd the sum of £800. The above sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

**Dated this 7<sup>th</sup> day of September 2022**

**Dr Stylianos Alexandridis**  
**For the Registrar, The Comptroller General**

## **Annex – Applicant’s Specification**

**Class 1:** Chemicals; ceramic glazings; lithium; cerium; neodymium; praseodymium; industrial non-metallic minerals other than purposes of building or construction; chemical compositions for developing, printing and enlarging photographs; reagent paper [not for medical purposes]; paper pulp.

**Class 2:** Dyestuffs; pigments; printing toner; paints; printing ink; colors for painting pictures; nonferrous metals in foil or powder form for painters, decorators, printers and artists; precious metals in foil or powder form for painters, decorators, printers and artists; filled toner cartridges for printers; ink cartridges, filled, for inkjet printers; ink cartridges, filled, for computer printers; filled toner cartridges for photocopiers.

**Class 3:** Paint stripping preparations; polishing preparations; soaps and detergents; dentifrices; cosmetics; aromatic oils; perfume and perfume oils for the manufacture of cosmetic preparations; incense.

**Class 4:** Grease for shoes and boots; leather preserving oil and grease; fuels; mineral oils and greases for industrial purposes [not for fuel]; non-mineral oils and greases for industrial purposes [not for fuel]; waxes [raw material]; candles.

**Class 5:** Pharmaceutical preparations; preparations for destroying vermin, fungicides, herbicides; reagent paper for medical purposes; diapers; diaper covers; mothproof paper; dental materials; lacteal flour for babies; dietary supplements for humans; beverages for babies; food for babies.

**Class 6:** Pipework of metal; common metals, unwrought or semi-wrought; iron and steel; magnetized steel; nonferrous metals and their alloys; metallic materials consisting primarily of magnetized amorphous alloys; metal materials for building or construction; containers of metal for transport; hardware of metal, small; wire rope;

industrial packaging containers of metal; metal nameplates and door nameplates; tool boxes of metal, empty.

**Class 7:** Crushing machines; cutting machines; industrial robots; agitators; mixers [machines]; kneading machines; high pressure washers; metalworking machines and tools; power driven polishers, wrenches and grinders; mining machines and apparatus; construction machines and apparatus; loading-unloading machines and apparatus; industrial fishing machines; chemical processing machines and apparatus; mixing machines for use in the manufacture of pharmaceuticals; machines for manufacturing pharmaceuticals as well as their parts and fittings as far as included in this class; textile machines and apparatus; food or beverage processing machines and apparatus; lumbering, woodworking, or veneer or plywood making machines and apparatus as far as included in this class; pulp making, papermaking or paper-working machines and apparatus; printing or bookbinding machines and apparatus; glassware manufacturing machines and apparatus; painting machines and apparatus; packaging or wrapping machines and apparatus; plastic processing machines and apparatus; semiconductor manufacturing machines and systems; machines and mechanical systems for inserting electronic components into printed boards automatically; electronic component manufacturing machines and mechanical systems; electronic component assembling machines and mechanical systems; electronic circuit assembling machines and mechanical systems; machines and apparatus for manufacturing rubber goods; stone working machines and apparatus; vehicle washing installations; food mixing machines for commercial use; food peeling machines for commercial use; food cutting, chopping and slicing machines for commercial use; dishwashers; machines and apparatus for wax-polishing, electric; lawnmowers; waste compacting machines and apparatus for industrial purposes; waste crushing machines for industrial purposes; electric food blenders for household purposes; agricultural machines and agricultural implements, other than hand-

operated; non-electric prime movers, not for land vehicles; parts of non-electric prime movers; mufflers for motors and engines; parts and fittings of mufflers for motors and engines; pneumatic or hydraulic machines and instruments; adhesive tape dispensing machines; automatic stamping machines; washing machines [laundry]; machine elements, not for land vehicles; curtain drawing devices electrically operated; electric door openers; 3D printers; starters for motors and engines; current generators; motors, electric, other than for land vehicles; starters for automobile engines; actuators for valves; linear actuators; linear motors.

**Class 8:** Electric razors and electric hair clippers; bladed or pointed hand tools, hand operated; swords; hand tools, hand operated, other than bladed or pointed hand tools; egg slicers, non-electric; non-electric planes for flaking dried bonito blocks [Katsuo-bushi planes]; can openers, non-electric; spoons; cheese slicers, non-electric; pizza cutters, non-electric; forks [cutlery]; vegetable slicers; braiders [hand tools]; electric flat irons; shaving cases; pedicure sets; eyelash curlers; manicure sets; hair-removing tweezers.

**Class 9:** Toner cartridges, unfilled, for printers and photocopiers; blueprint apparatus; cash registers; coin counting or sorting machines; photo-copying machines; mathematical instruments; time and date stamping machines; time clocks [time recording devices]; punched card office machines; voting machines; postage stamp checking apparatus; fire alarms; gas alarms; anti-theft warning apparatus; simulators for the steering and control of vehicles; sports training simulators; chromatography columns; apparatus for automatic chromatography; laboratory apparatus and instruments; chromatography columns for laboratory experimental machines and apparatus; laboratory ovens and laboratory apparatus as well as their parts; biochips; virus testing apparatus for laboratory use; measuring or testing machines and instruments; bacteria testing apparatus not for medical use; liquid analysis apparatus; gas testing instruments; chromatography columns for measuring or testing machines and

instruments; microfluidic chips; pedometers; temperature sensors; humidity sensors; biochip sensors; sensors as being measurement apparatus, other than for medical use; encoders as being measurement apparatus; wearable activity trackers; diagnostic apparatus, not for medical purposes; 3D spectacles; thermal imaging cameras; sound recording apparatus; photographic machines and apparatus; cinematographic machines and apparatus; optical machines and apparatus; optical lenses; automatic control apparatus and remote monitoring apparatus for measuring, monitoring and controlling air condition; event recorders; solar batteries; power distribution or control machines and apparatus; rotary converters; phase modifiers; electric switches; regulating apparatus, electric; control panels [electricity]; electrical controlling devices; connectors [electricity]; switches, electric; contacts, electric; connections, electric; electrical adapters; electric transformers; battery chargers; DC/DC converters; converters, electric; automatic control apparatus for electrical power supplies; variable electric resistors; electric resistors; accumulators, electric; fuses; batteries and cells; electric or magnetic meters and testers; oscillators; electric wires and cables; telecommunications apparatus and instruments; parts and accessories for telecommunications apparatus and instruments; audio speakers and their accessories; CD and DVD audio players and recorders; CD and DVD video players and recorders; optical disc video players and recorders; CD and DVD disc changers; optical disc changers; audio amplifiers; audio players and video players incorporating hard disk drives; audio players and video players incorporating IC memory; television receivers [TV sets]; radio receivers; equalisers [audio apparatus]; navigation apparatus for vehicles [on-board computers]; parts and fittings of navigation apparatus for vehicles [on-board computers]; controllers for navigation apparatus for vehicles; navigational instruments; parts and fittings for navigational instruments; loudspeakers; camera modules for mobile phones; lens actuators for camera modules of mobile phones; radio beacon machines and apparatus; digital cameras;

digital video cameras; radio wave transmitting and receiving machines and instruments for use in the locating of lost pets; video surveillance systems; radio remote control apparatus for starting automobile engines; car stereos; audio transmitter units for automobiles; controllers for car audio equipment; sound amplifiers; diaphragms [acoustics]; portable vibration speakers; limiters [electricity]; speakers utilizing bone conduction technology; headphones utilizing bone conduction technology; frequency converters for actuators; frequency converters for motors; remote controls for telecommunication machines and apparatus; controllers for telecommunication machines and apparatus; remote control apparatus; remote control telemetering machines and instruments; data communication apparatus and instruments; electric coils for telecommunication apparatus; protective covers and cases for tablet computers; computer cases; integrated circuit modules for telecommunication devices and apparatus; personal digital assistants in the shape of a watch; smartphones; cases or covers adapted for smartphones; liquid crystal display [LCD] protection sheets for smartphones; touch panels; touch screens; touch panels for personal digital assistants; magnetic encoders; electronic display units; electronic machines, apparatus and their parts and fittings; electronic animal identification apparatus; computers; computer peripheral devices; computer programs; electronic identification tags; electronic tags; optical mouse; scanners [data processing equipment]; visual display units for computers; hard disk drives; printers; electrostatic copying machines; electronic dictionaries; word processors; electronic control apparatus and instruments for automobiles; electronic control apparatus and instruments for steering wheels for automobiles; electronic control apparatus and instruments for automobile pedals; electronic control apparatus and instruments for gear shifts for automobiles; electronic control apparatus; computer programs for vibration control; computer programs for telecommunication; parts for electronic control apparatus and instruments for automobiles; touch pads; thermal printers; touch-



sensing input devices for telecommunication machines and apparatus; touch sensing input devices for electronic machines and apparatus; touch sensing input devices for personal digital assistants; touch sensing input devices for power distribution or control machines and apparatus; touch sensing input devices for measuring or testing machines and instruments; touch sensing input devices for photographic machines and apparatus; touch sensing input devices for cinematographic machines and apparatus; touch sensing input devices for optical machines and apparatus; touch sensing input devices for fire alarms; touch sensing input devices for gas alarms; touch sensing input devices for antitheft warning apparatus; touch sensing input devices for simulators for the steering and control of vehicles; touch sensing input devices for sports training simulators; touch sensing input devices for navigation apparatus for vehicles [on-board computers]; computer software for use with touch-sensing input devices; computer software for use with touch pads, touch panels and touch screens; chips [integrated circuits]; integrated circuit cards [smart cards]; IC tag readers; electronic pens; inductors [electricity]; magnetic cores; resistance wires; electrodes; satellites for scientific purposes; dust protective masks; spectacles [eyeglasses and goggles]; prerecorded CD-ROMs; prerecorded DVDs; prerecorded magnetic data carriers; game programs for arcade video game machines; game programs for home video game machines; electronic circuits and CD-ROMs recorded with programs for hand-held games with liquid crystal displays; metronomes; electronic circuits and CD-ROMs recorded with automatic performance programs for electronic musical instruments; effecters for electric or electronic musical instruments; electric and electronic effects units for musical instruments; phonograph records; downloadable music files and audio files; sound recordings; downloadable image files and video files; video recordings; visual and written data about magazines, books, newspaper, maps, photographs and drawings, downloadable; electronic publications, downloadable; exposed cinematographic films; exposed slide films; slidefilm mounts; vehicle-mounted devices

for electronic toll collection; electronic locks; control apparatus for electronic locks; electronic locks for security purposes; keyless entry systems incorporating sensors; keyless entry systems incorporating electronic control devices; keyless entry systems incorporating wireless communication modules; sensors exclusively adapted for keyless entry systems; electronic control devices exclusively adapted for keyless entry systems; wireless communication modules exclusively adapted for keyless entry systems.

**Class 10:** Ear plugs for sleeping; ear plugs for soundproofing; esthetic massage apparatus for commercial use; medical apparatus and instruments; electric massage apparatus for household purposes; gloves for medical purposes; ear picks; finger guards for medical purposes; teething rings; ice bag pillows for medical purposes; triangular bandages; supportive bandages; surgical catguts; feeding cups for medical purposes; dropping pipettes for medical purposes; teats; medical ice bags; medical ice bag holders; nursing appliances; nursing bottles.

**Class 11:** Sanitary apparatus and installations; toilet bowls and seats sold as a unit; prefabricated bathroom installations sold as a unit; toilet stool units with a washing water squirter; disinfectant dispensers for toilets; toilet bowls; seats for use with Japanese style toilet bowls; bath fittings; desiccating apparatus; drying apparatus; drying apparatus for chemical processing; recuperators for chemical processing; steamers for chemical processing; evaporators for chemical processing; distillation apparatus for chemical processing; heat exchangers for chemical processing; chromatography columns for industrial purposes; parts of chromatography columns for industrial purposes; chromatography apparatus for industrial purposes; parts and fittings of chromatography apparatus for industrial purposes; milk sterilizers; ice-cream making machines for industrial purposes; bread-making machines for industrial purposes; drying apparatus for harvest; forage drying apparatus; towel steamers for hairdressing purposes; hair drying machines for beauty salon use; hair steamers for beauty salon

use; shampoo basins for barbers' shop use; cooking apparatus and installations for commercial use; dish drying machines for commercial use; dish disinfectant apparatus for commercial use; kitchen sinks for commercial use; household electrothermic appliances; heat exchangers, other than parts of machines; industrial furnaces; nuclear reactors [atomic piles]; boilers, other than parts of non-electric prime movers or engines; air conditioners for industrial purposes; air conditioners for vehicles; parts and fittings of air conditioners for vehicles; ventilation [air-conditioning] installations for vehicles; parts and fittings of ventilation [air-conditioning] installations for vehicles; defrosters for vehicles; parts and fittings of defrosters for vehicles; freezing machines and apparatus for industrial purposes; waste water treatment tanks for industrial purposes; septic tanks for industrial purposes; garbage incinerators; gas water heaters for household purposes; electric lamps and other lighting apparatus; light bulbs for directional signals for vehicles; lights for vehicles; anti-dazzle devices for vehicles [lamp fittings]; non-electric cooking heaters for household purposes; kitchen sinks for household purposes; household tap-water filters; stoves for household purposes, non-electric; chromatography columns for pharmaceutical manufacturing purposes.

**Class 12:** Tilting-carts; traction engine; ropeways for cargo or freight handling; rickshaws; sleighs and sleds [vehicles]; trolleys; carts; horse drawn carriages; carts [Riyakah]; shopping carts; vehicle joysticks; vessels and their parts and fittings; aircraft and their parts and fittings; railway rolling stock and their parts and fittings; automobiles and their parts and fittings; two-wheeled motor vehicles, bicycles and their parts and fittings; push scooters [vehicles]; side cars; wheelchairs; non-electric prime movers for land vehicles, not including their parts; machine elements for land vehicles; anti-theft alarms for vehicles; motors, electric, for land vehicles; baby carriage [prams]; couplings for land vehicles; clutches for land vehicles; driving chains for land vehicles; mobility scooters; hydroplanes; remote control vehicles,

other than toys; space vehicles; electric vehicles; carrier tricycles; delivery tricycles; tricycles; drink holders for automobiles.

**Class 13:** Firearms; ammunition; gunpowder; explosive powders; pyrotechnic products; cartridges for pyrotechnic products; tanks [weapons].

**Class 14:** Precious metals; unwrought and semi-wrought precious stones and their imitations; key rings; wristwatches; clocks; watches; parts and accessories for clocks and watches; commemorative shields; trophies [prize cups]; personal ornaments [jewellery, jewelry (Am.)]; jewellery; jewellery boxes.

**Class 15:** Tuning apparatus for musical instruments; musical instruments; music stands; conductors' batons; tuning forks.

**Class 16:** Office requisites, except furniture; pastes and other adhesives for stationery or household purposes; addressing machines; ink ribbons; automatic stamp affixing machines; electric staplers for offices; envelope sealing machines for offices; stamp obliterating machines; drawing instruments; typewriters; checkwriters; mimeographs; relief duplicators; paper shredders for office use; franking machines; rotary duplicators; ink ribbon cartridges; ink ribbons and ink ribbon cartridges for computer printers; ink ribbons and ink ribbon cartridges for hand-held label printers; stationery; wrapping paper; industrial packaging containers of paper; paper and cardboard; hygienic hand towels of paper; towels of paper; table napkins of paper; hand towels of paper; handkerchiefs of paper; baggage tags; printed matter; photographs [printed]; photograph stands; iron-on transfer sheets.

**Class 17:** Electrical insulating materials; insulating gloves; rubber cords and laces; industrial packaging containers of rubber; plastic semi-worked products; plastic in the form of bars, blocks, pellets, sheets, films, plates and tubes in further manufacture for general industrial use; rubber [raw or semi-worked]; soundproofing materials

of rock wool, not for building purposes; asbestos boards; asbestos powder.

**Class 19:** Non-metallic minerals for building or construction; non-metal mooring bollards; stone sculptures; concrete sculptures; sculptures of marble; buildings, not of metal; water-pipe valves, not of metal or plastics; rainwater reservoirs of masonry.

**Class 20:** Containers, not of metal, for storage or transport; containers for transport, not of metal; industrial packaging containers of wood, bamboo or plastics; cushions; pillows; mattresses; Japanese floor cushions [Zabuton]; nameplates and door nameplates, not of metal; tool boxes, not of metal, empty; picture frames; poles, not of metal; rice hulls.

**Class 21:** Brush goods; cosmetic and toilet utensils; electric toothbrushes; clothes brushes; crystal [glassware], namely, glassware for domestic, household or kitchen use; kitchen utensils and containers, not including gas water heaters for household use, non-electric cooking heaters for household purposes, kitchen worktops and kitchen sinks; piggy banks; industrial packaging containers of glass or porcelain; cleaning tools and washing utensils; chamber pots; ceramic tissue box covers; cattle hair for brushes, raccoon dog hair for brushes, pig bristles for brushes and horsehair for brushes; tissue box covers of vinyl chloride; tissue box covers of wood; tissue box covers of plastic.

**Class 22:** Tarpaulins for ships; sails; cotton waddings for clothes; hammocks; cotton batting for Futon; bindings, not of metal; wrapping or binding bands, not of metal; string; cordage; elastic bands for binding; packing [cushioning, stuffing] materials, not of rubber, plastics, paper or cardboard; industrial packaging containers of textile; packing, of straw, for bottles; sawdust; kapok; wood shavings; wood wool; wax waste for stuffing; cattle hair, raccoon dog hair, pig bristles and horsehair [raw material]; feathers and downs.

**Class 27:** Bath mats for wet places; rugs; mats; carpets; floor coverings; wall hangings, not of textile; gymnastic mats; wallpaper; floor mats for automobiles; floor carpets for automobiles; artificial turf.

**Class 28:** Amusement machines and apparatus for use in amusement parks; controllers for game consoles; video game machines; joysticks for video games; toys for domestic pets; games; toys; dolls; Go games; Japanese chess [Shogi games]; Japanese playing cards [Utagaruta]; dice; Japanese dice games [Sugoroku]; dice cups; Chinese checkers [games]; chess games; checkers [checker sets]; conjuring apparatus; dominoes; playing cards; Japanese playing cards [Hanafuda]; mah-jong; game machines and apparatus; billiard equipment; sports equipment; fishing tackle.

**Class 35:** Business management analysis; business consultancy; market analysis and research services; providing information concerning commercial sales; business management services; employment agencies; import-export agencies; document reproduction; compilation of information into computer databases; office functions, namely filing, in particular documents or magnetic tapes; providing business assistance to others in the operation of data processing apparatus namely, computers, typewriters, telex machines and other similar office machines; providing employment information; retail services or wholesale services for automobiles and parts and fittings therefor; retail services or wholesale services for electrical machinery and apparatuses; retail services or wholesale services for printed matter; retail services or wholesale services for paper and stationery; retail services or wholesale services for sports goods; retail services or wholesale services for toys, dolls, game machines and apparatus; retail services or wholesale services for parts and fittings of measuring or testing machines and instruments; retail services or wholesale services for measuring or testing machines and instruments; retail services or wholesale services for parts and fittings of medical machines and apparatus; retail services or wholesale services for parts and fittings of kerosene fan heaters;

retail services or wholesale services for aspheric glass lenses used for optical communication; retail services or wholesale services for parts and fittings of air conditioners; retail services or wholesale services for vehicle-mounted devices for electronic toll collection; information processing by means of computers.

**Class 36:** Financial information; financial consultancy; financial analysis; financial management; loan financing; management of buildings; agency services for the leasing or rental of buildings; leasing or renting of buildings; real estate agency services relating to the purchase and sale of buildings; real estate appraisal; providing information on buildings or land [real estate affairs]; land management; agency services for the leasing or rental of land; leasing of land; real estate agency services relating to the purchase and sale of land; financial assessment of company credit; issuance of tokens of value; agencies for collecting gas or electric power utility payments; collection of payments for goods; agencies for commodity futures trading; antique appraisal; art appraisal; precious stone appraisal; charitable fund raising; insurance underwriting; marine insurance underwriting; insurance consultancy; insurance information.

**Class 37:** Machinery installation; telecommunication wiring; construction; repair of buildings; vehicle repair services; vehicle breakdown repair services; vehicle maintenance; vehicle cleaning; anti-rust treatment for vehicles; shipbuilding; repair or maintenance of vessels; repair or maintenance of air vehicles; repair of bicycles; repair or maintenance of automobiles; repair or maintenance of rail vehicles; repair or maintenance of two-wheeled motor vehicles; repair or maintenance of fire alarms; repair or maintenance of burglar alarms; repair or maintenance of electronic machines and apparatus; repair or maintenance of telecommunication machines and apparatus; repair or maintenance of consumer electric appliances; repair or maintenance of integrated circuit manufacturing machines and systems; repair or maintenance of semiconductor manufacturing machines and systems; repair and maintenance of electronic

component manufacturing machines and systems; repair and maintenance of electronic component assembling machines and systems; repair and maintenance of electronic circuit assembling machines and systems.

**Class 38:** Telecommunication, other than broadcasting; broadcasting; news agencies; rental of telecommunication equipment including telephones and facsimile apparatus; rental of access time to computer database and providing information or advice relating thereto.

**Class 39:** Transportation logistics; transportation information; collection of recyclable goods [transport]; tracking of passenger or freight vehicles using computers or global positioning systems [transport information]; railway transport; car transport; marine transport; vehicle breakdown towing services; towing; portage; hauling; freight forwarding; delivery of goods; message delivery; transport and storage of trash; freight brokerage; cargo unloading; warehousing services; temporary safekeeping of personal belongings; temporary storage of deliveries; storage; storage information; freight brokerage; transport reservation; brokerage for rental or chartering of vessels; conducting of travel tours; escorting of travel tours; travel arrangement and reservation services, excluding those for lodging; providing road and traffic information; packaging of goods; rental of warehouse space; parking lot services; vehicle rental.

**Class 40:** Treatment or processing of cloth, clothing or fur, including drying; sawing of materials; metal treating; processing of rubber; processing of plastics; ceramic processing; wood-working; paper treating and working; stone treating; processing of bamboo, tree barks, rattan, vines or other natural materials other than processing of ingredients; planning of materials; laminating; engraving; recycling of waste; rental of metal treating machines and tools; providing material treatment information; recycling, sorting and disposal of industrial waste and trash; custom assembling of electric and



electronic components; processing of metal surfaces using precision grinding techniques.

**Class 41:** Entertainment services; entertainment information; movie theatre presentations or movie film production and distribution; provision of on-line videos and images, not downloadable; presentation of live show performances; direction or presentation of plays; presentation of musical performances; provision of on-line sound and music, not downloadable; organization, arranging and conducting of sports competitions; organization of entertainment events excluding movies, shows, plays, musical performances, sports, horse races, bicycle races, boat races and auto races; organization, arranging and conducting of auto races; providing amusement facilities; providing electronic publications; services of reference libraries for literature and documentary records; book rental; art exhibitions; providing sports facilities; rental of television sets; rental of radio sets; rental of audio devices, video cameras and video cassette recorders; none of the aforementioned services being in the field of education.

**Class 42:** Engineering; providing information on computer technology and programming via a web site; computer technology consultancy; information technology [IT] consultancy; scientific laboratory services; conducting technical project studies; technical research; technical writing; providing research information in the fields of science and technology; research and development of new products for others; vehicle roadworthiness testing; architectural services; surveying; designing of machines, apparatus, instruments [including their parts] or systems composed of such machines, apparatus and instruments; computer software design, computer programming, or maintenance of computer software; providing information or advice relating to computer software design, computer programming, or maintenance of computer software; configuration of computer networks; providing information or advice relating to configuration of computer networks; monitoring of computers and computer systems by remote access;

installation, duplication, configuration and updating of computer programs; providing information or advice relating to installation, duplication, configuration and updating of computer programs; conversion of text, image and audio information to text, image and audio signals or data processing of these information for recording media; computer data conversion for others; computer data encryption and decoding services; providing information or advice relating to computer data encryption and decoding services; providing search engines for the internet; creating or maintaining web sites for others; providing information or advice relating to creating or maintaining web sites for others; testing, inspection or research of pharmaceuticals, cosmetics or foodstuffs; research on building construction or city planning; testing or research on prevention of pollution; testing or research on electricity; testing or research on civil engineering; material testing for others; quality control for others; testing, inspection or research on agriculture, livestock breeding or fisheries; testing or research on machines, apparatus and instruments; calibration [measuring]; designing, other than for advertising purposes; technological advice relating to computers, automobiles and industrial machines; rental of measuring apparatus; providing computer application software; software as a service [SaaS]; rental of computers; providing programs for computers and mobile phones; cloud computing; hosting computer sites [web sites]; server hosting.

**Class 44:** Providing medical information; health consultancy; health care information services; managed health care services; physical examination; dietary and nutritional guidance; animal breeding and care; veterinary services; animal grooming; health care services for pets; providing medical information for pets; providing information relating to health maintenance of pets; nursing care; farming equipment rental; medical equipment rental.

**Class 45:** Assisting in the locating of lost pets; assigning identifying information to affix to luggage and other property to facilitate its

recovery following loss; lost pets investigation and recovery services; investigation or surveillance services for checking background profiles; pet sitting; providing location information of persons, articles or animals; providing location information of persons, articles or animals by means of communication terminals; providing location information of telecommunication devices and radio beacon devices for radio signal sources and radio access points; providing information from a computer database about investigation services relating to lost or stolen vehicles; stolen vehicle recovery services; stolen vehicle tracking; alarm response and verification services; monitoring of alarms; security guarding for facilities; personal body guarding; security screening of baggage; surveillance services; providing information about intellectual property rights; intellectual property consultancy; rental of fire alarms; rental of fire extinguishers.