

O-321-06

**TRADE MARKS ACT 1994
IN THE MATTER OF APPLICATION 2319721A IN THE NAME OF
DRIVESMART LIMITED**

AND

**IN THE MATTER OF OPPOSITION THERETO
UNDER No. 92197
BY SMART GMBH**

TRADE MARKS ACT 1994

**IN THE MATTER OF Application 2319721A
in the name of Drivesmart Limited
and
IN THE MATTER OF opposition thereto
under No. 92197 by smart gmbh**

BACKGROUND

1. On 27 December 2002 Drivesmart Limited applied to register the trade mark DRIVESMART. The application was published for opposition purposes on 30 May 2003.

2. The application was published for a variety of goods and services in Classes 9, 12, 35, 36, 37 & 42. However, the application was partially assigned on 16 December 2003 resulting in this application covering the following:

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|----------|---|
| Class 12 | Vehicles; apparatus for locomotion by land, air or water; parts and fittings and accessories for the aforesaid. |
| Class 35 | Advertising; business administration; business organisation; bringing together for the benefit of others of a variety of goods and services to enable consumers to conveniently view and purchase those goods and services over the Internet on a specialist Internet website relating to the sale of cars, and the provision of financial, insurance and breakdown and maintenance services; provision of information and advice in relation to the aforesaid. |
| Class 36 | Financial services; insurance services; financial consultancy services. |
| Class 37 | Repair services; installation services; maintenance services relating to vehicles; vehicle breakdown repair services; repair, maintenance and breakdown services relating to vehicles. |

3. On 29 August 2003 smart gmbh filed a notice of opposition. The grounds upon which the opponent relies can be summarised as:

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|------------------------|--|
| Section 5(2)(b) | That the application is a similar mark to the opponent's earlier marks (as listed in the Annex to this decision) in relation to identical/similar goods and services, and that this would lead to a likelihood of confusion. |
| Section 5(4)(a) | That the applicant has a goodwill in the indicia SMART and that use by the applicant of DRIVESMART will lead to damage to the goodwill enjoyed by the opponent. Although |

not expressly stated by the opponent, I take this to be a claim relating to the law of passing off.

That the opponent's earlier marks constitute a family of marks and that the application would be taken by the public as a member of that family. Again, I take this to be a claim relating to the law of passing off.

4. The applicant filed a counterstatement on 1 June 2004 in which the grounds of opposition were denied.

5. Both sides ask for an award of costs.

6. Only the opponent filed evidence in the proceedings. The parties were given an opportunity to request a hearing prior to the determination of the opposition; neither party did so. However, the opponent did file written submissions - these were submitted by their trade mark attorney, Mr Moore of Jenson & Son, under cover of a letter dated 12 December 2005. I will summarise Mr Moore's written submissions when dealing with each of the grounds of opposition later in this decision.

EVIDENCE

Opponent's evidence

7. The opponent's evidence is from Gerhard Rolf Bauer, Trade Mark Counsel for the opponent. His evidence comes from his own knowledge or from the records of the opponent company. The evidence provides information on the opponent's business and also offers submissions on the grounds pleaded; I do not intend to summarise the latter.

8. Mr Bauer states that the opponent (and its predecessors in title) have been manufacturing the SMART (which the evidence shows to be a car) since 1998. Exhibit GRB1 consists of a press release (from the opponent's web-site) describing the UK launch of the SMART. The press release states that the launch took place on 17 October 2000 at the British International Motor Show. No information is provided as to the exposure that this press release received.

9. Exhibit GRB2 consists of the Registrar's preliminary indication, which, due to its non-binding and non-persuasive nature, I have not taken into account or even examined in any way. To do otherwise would undermine the tribunal process and the independent decision that I am required to reach.

10. Mr Bauer next refers to Exhibit GRB3. This is a list of articles on the SMART car that have been published in various newspapers and car magazines. The articles are dated between 1995 and 2003. Mr Bauer then explains that even though the UK launch of the SMART car only took place in October 2000, that some cars were imported into the UK prior to this date (so called "parallel imports"). The number of SMART cars that were

imported on this basis, together with the number of officially imported cars from October 2000 onwards, is given as follows:

Year	Official Imports	Parallel Imports	Total
1998	0	4	4
1999	0	860	860
2000	956	2, 725	3, 681
2001	4, 303	1, 412	5,715
2002	7, 589	-	7, 589
Total	12, 848	5, 001	17, 849

11. Exhibit GRB4 consists of extracts from the opponent's sales brochures demonstrating the price of SMART cars. The minimum price is said to be £5700. These extracts are dated between 2001 and 2002. A similar extract from the opponent's web-site is also provided, but unfortunately this is not dated.

12. Mr Bauer then provides information on worldwide sales. Given that this does not assist the UK position to any great extent I have not summarised it here. Information on the amount spent on promotion in the UK is then given, namely: Year 2000 £397, 566, Year 2001 £1.69 million, Year 2002 £1.73 million and Year 2003 (to August) £7 million. Various exhibits provide further information on this marketing activity which include monthly breakdowns of the promotional spend, lists detailing the advertising carrier and the frequency of appearance etc. Information on the combined marketing and advertising expenditure in Germany, France, Italy and the UK is also provided; again, as I have to consider the position in the UK, I have not summarised this here.

13. Exhibit GRB7 consists of a letter (in the nature of a mail-shot) on which is printed a map of England, Scotland and Wales. The location of authorised sellers of the SMART car are detailed on this. Although there is a large geographical spread of these sellers, this letter is dated October 2003 and is, thus, after the relevant date. No information is provided to inform me of the geographical spread of authorised sellers prior to the relevant date other than the fact that upon launch there were four sellers, these being located in Piccadilly, Chiswick, Birmingham and Milton Keynes.

14. Exhibit GRB8 is an extract, from 2001, from the opponent's web-site. This is intended to show that the SMART car could, at this date, be configured and purchased on-line.

15. Mr Bauer then provides evidence in relation to the financial and insurance products offered by the opponent. He provides extracts from the opponent's sales brochures (Exhibit GRB9) that show a potential SMART car purchasers ability to finance the car or to buy insurance for it. Exhibit GRB9 is referred to again to demonstrate the opponent's repair and maintenance service. The brochure provides information on the warranty available with the SMART car and a parts and accessories fitting service that is also offered. Exhibit GRB10 appears to be from the opponent's web-site showing information on their warranty and repair services, however, this information is not dated. Mr Bauer

states that he is not aware of any other company in the motor vehicle industry using SMART and/or SMART formative marks directed at the general public. He completes his evidence by referring (Exhibit GRB11) to a decision of the Second Board of Appeal upholding a SMART Community trade mark.

16. That completes my review of the evidence filed in these proceedings.

THE LAW

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

5(2) A trade mark shall not be registered if because -

(a)

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

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

DECISION

Section 5(2)

18. The European Court of Justice (ECJ) has provided helpful guidance in a number of judgments relating to Article 7(2) of the Directive (Section 5(2) as incorporated into the Trade Marks Act 1994), notably, *Sabel BV v. Puma AG* [1998] E.T.M.R. 1, *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc* [1999] RPC 117 and *Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V.* [2000] F.S.R. 77 and *Marca Mode CV v Adidas AG Adidas Benelux B.V.* [2000] E.T.M.R. 723. I have paid due attention to these cases when coming to my decision.

19. Mr Moore's written submissions in relation to this ground focus on the similarity of the marks, the similarity between the goods/services, the distinctiveness of the earlier marks and his opinion on the global assessment of the likelihood of confusion. My decision will be structured in a similar way and, as such, I will detail these submissions together with my findings under each of these criteria.

Similarity of the marks

20. Mr Moore submits that the application and the earlier marks share the same dominant and distinctive element, namely the word SMART. The shared element between the respective marks is, thus, visually, aurally and conceptually identical. Although he concedes that the application also contains the word DRIVE, Mr Moore submits that this element is wholly descriptive due to the goods and services relating to vehicles and the

act of driving. This leads him to the view that the word DRIVE, as it appears in the applicant's mark, is unlikely to form part of the average consumer's recognition of the trade mark significance of the mark. Taking these factors into account, Mr Moore feels that the average consumer, imperfectly recalling the application and the opponent's earlier marks, will focus on the dominant and distinctive element of the marks, namely, the word SMART. Mr Moore, therefore, considers the marks to be highly similar.

21. A comparison of marks must be made on the basis of their visual, aural and conceptual similarities by reference to their overall impression bearing in mind their distinctive and dominant components (see *Sabel BV v Puma AG* [1998] R.P.C. 199) and that the matter must be judged from the perspective of the average consumer who is deemed to be reasonably well informed, reasonably circumspect and reasonably observant (see *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen B.V.* [2000] F.S.R.77). Therefore, before comparing the marks I must identify who the average consumer is in relation to the goods and services at issue. It is fair to say that the goods and services all relate to vehicles including their sale, maintenance and repair. Although not all the goods and services covered by the application have been so limited, many of them are specifically limited to the field of cars. Taking this into account, I consider the average consumer to be the car orientated general public, namely individuals who are car buyers or prospective car buyers, and users of car related repair and financial services etc. Furthermore, this would also include individuals who carry out these roles on behalf of businesses e.g. fleet buyers and managers. Furthermore, due to the cost of the potential purchase, the average consumer is likely to pay a significant degree of attention to the purchasing act and the signs that distinguish one trader's goods and services from others.

22. In terms of the similarities between them, the respective marks both contain the word SMART. This creates a point of visual and aural similarity. However, the applicant's mark has the additional word DRIVE, so creating a longer mark when visualised and one which, of course, is pronounced differently. Mr Moore argues that the average consumer will almost ignore the word DRIVE (and therefore focus on the SMART) element due to its vehicle related connotation. However, it seems to me, from a face value analysis, that the applicant's mark consists of two common words conjoined, neither of which is more inherently distinctive, nor more dominant, than the other.

23. Moving on to the conceptual similarities between the marks, I note again the common presence of the word SMART, which gives some (albeit a very superficial) degree of conceptual similarity. However, I do not consider this to be a particularly strong factor because the word SMART in the applicant's mark qualifies the word DRIVE, thus, creating a different conceptual meaning and significance to the word SMART alone, namely, an encouragement to drive smartly.

24. The respective marks have some similarities but does that make them similar marks? I consider this to be a case where the similarities between the respective marks, although not great, are sufficient for me to find that similar marks are in play albeit to a small degree. This degree of similarity is sufficient for me to go on and to undertake the global assessment of the likelihood of confusion.

Similarity of goods/services

25. Mr Moore's submissions claim that with the exception of "advertising; business management; business organisation" the application is sought to be registered in respect of either identical or highly similar goods/services to those protected by the earlier marks relied upon. I cannot disagree with this submission. The applicant's vehicles (Class 12), retail services (Class 35), financial services (Class 36) and repair/maintenance services (Class 37) all clash directly with identically worded or very similar terminology used in a number of the opponent's earlier marks for the word SMART.

26. In respect of the terms "advertising; business management; business organisation" I note that the opponent's earlier marks CTM2086353 & CTM 2086288, both for the mark SMART WEBMOVE, do cover these terms. However, I note that given my finding that the mark SMART is similar only to a small degree to the applicant's mark, I find that the mark SMART WEBMOVE is a further step away due to the additional visual, aural and conceptual differences. I will, nevertheless, consider this particular conflict in my overall assessment of the likelihood of confusion.

Distinctiveness of the earlier marks

27. The distinctiveness of the earlier marks relied upon is an important factor to take into account when assessing whether there exists a likelihood of confusion. This is because there is a greater likelihood of confusion if the earlier mark is a highly distinctive one due either to its inherent nature or to the use that has been made of it (see *Sabel BV v Puma AG*).

28. In his written submissions, Mr Moore argues that the earlier marks have acquired considerable distinctiveness by virtue of the tremendous popularity of the cars sold bearing the mark. I can offer a qualified agreement to this argument. Although the word SMART is not, from an inherent point of view, particularly distinctive (due to meanings of attractiveness and cleverness), the evidence filed is, in my opinion, significant. I have already summarised the evidence so I do not intend to repeat it here, but it is suffice to say that the evidence supports the proposition that at the date of application (December 2002) the SMART was a well known and popular make of car on the roads in the UK.

29. The reasons that I make only a qualified agreement with Mr Moore's submissions in respect of the degree of distinctiveness are two-fold. Firstly, part of the conflict between the parties lies in respect of the Class 35 terms "advertising; business management; business organisation" for which the opponent can only rely on the earlier mark SMART WEBMOVE. There is no evidence to demonstrate that this mark (or even the mark SMART alone) has acquired any form of reputation in relation to these particular services. Although I can say that this mark has slightly more inherent distinctiveness (I consider it to be of low to average distinctiveness), it is not entitled to an enhanced degree of protection.

30. My second reservation is in respect of the financial and maintenance services. Whilst the evidences demonstrates that the mark SMART is used in conjunction with these services (for example, the evidence includes web-pages and product brochures for the SMART car which also offers some financial and maintenance services to prospective purchasers), the link the consumer will make between the mark and the services will not, in my opinion, be as strong as between the mark and the SMART car itself. Although offered in the above context, there is no evidence to show that these associated services have been specifically publicised or what the take-up of these services has been. I therefore find that some enhancement of the distinctive character of the mark in relation to these services will have taken place due to both its actual use and from the residual use in relation to the car itself, but I do not consider that this enhancement turns the mark into a highly distinctive one for these associated services. These reservations also apply, but to a greater extent, to some of the goods in Class 12, namely, vehicles for locomotion by air or water. Again, there is no evidence to support these goods and the claim to enhanced distinctiveness is consequently weak here.

31. In summary, I find that in relation to cars, the mark SMART has acquired a highly distinctive character, but in relation to apparatus for locomotion by air or water it has not. I find that in relation to the associated services of financial and maintenance services that some enhancement from an initially low degree of inherent distinctiveness has taken place but not to the extent that it has become highly distinctive. Finally, in relation to “advertising; business management; business organisation” the distinctiveness of the mark (SMART WEBMOVE in this case) relied upon by the opponent has not been enhanced at all.

Likelihood of confusion

32. There are a number of subsets of goods and services, which, taking into account my analysis and findings under the previous headings, could potentially lead to different outcomes in terms of whether there exists a likelihood of confusion.

33. Looking firstly at vehicles, in particular cars in Class 12, it seems quite clear that this represents the opponent’s strongest prospect of success. In summary, the goods are identical, the marks are similar to a small degree, but, I have found that the earlier mark SMART to be highly distinctive due to the use made of it. But what is the net effect of all this?

34. I believe this to be a case where the messages that the consumer would take from the respective marks is of particular relevance. The earlier mark SMART has become a highly distinctive indication of the economic origin of a particular car – the inherent meaning of the word is effectively lost. This distinctiveness would, in my opinion, enter the mind of the average consumer if they encountered the applicant’s mark – rather than simply seeing the applicant’s mark for what it is (an encouragement to drive smartly) the distinctiveness of the earlier mark would alter this perception and would instead send a message of encouragement to drive the SMART brand of car. For this reason, I find that in relation to the Class 12 part of the application there does exist a likelihood of

confusion. However, this finding does not extend to “apparatus for locomotion by air or water” as the highly distinctive nature of the opponent’s mark is lost in relation to these goods and, based on the other factors I have taken into account in my global assessment, I do not consider there to be a likelihood of confusion here.

35. Turning to the dispute in relation to the Class 35 specification of the application, in so far as it covers the bringing together of cars for retail purpose, it seems to me that this service and the car itself are inextricably linked. Consequently, I find that there does exist a likelihood of confusion for similar reasons as given in relation to cars in Class 12.

36. I next consider whether there is a likelihood of confusion with the earlier marks in relation to the applicant’s services of a financial nature (Class 36), maintenance/breakdown (Class 37) and the bringing together for sale of these particular services (Class 35). Again to summarise, the services are identical or highly similar, the respective marks are similar to a small degree, the earlier mark (although low in distinctiveness from an inherent viewpoint) has a reasonable degree of distinctiveness due to the use made of it. Again, what is the net effect of all this?

37. Adopting the same approach as my assessment in relation to Class 12, the question is whether the consumer will, when encountering the applicant’s mark in relation to these associated services, see the smart element of the applicant’s mark simply for its inherent qualities or whether they will see it as a distinctive reference to the opponent’s SMART car? This is a finely balanced assessment, however, it is important to bear in mind that I am entitled to consider the range of notional and fair uses that could be made of the applicant’s mark. One such use would be the offer of such financial and maintenance services as an additional service to the sale of cars (much of the applicant’s specification is so limited) including the sale of the opponent’s car (albeit, in a second hand environment). In this context, the consumer will undoubtedly see the word SMART in the applicant’s mark as a reference to the SMART car and would presume a connection in the course of trade between the applicant and the opponent. It is not uncommon for authorised sellers of particular makes of cars to also sell second hand cars primarily of the same brand. Therefore, financial and maintenance services sold under the applicant’s mark in this context would, in my opinion, lead to a likelihood of confusion.

38. Finally, I turn to consider the applicant’s advertising, businesses administration and business organisation services. It is important to note that simply because the opponent advertises its goods and no doubt organises and administers its business, this does not mean that they are offering an advertising or business service. A service of this nature is concerned with the offer of such services to other undertakings. As mentioned earlier, I can see nothing in the evidence to support the view that the opponent offers these services, nor that there is any real link between the sale of cars and these services. I am therefore left with a simple comparison between the opponent’s SMART WEBMOVE mark (the mark SMART solus does not cover the goods of conflict here) and the applicant’s DRIVESMART mark. Identical goods are involved, but the mark is not entitled to an enhanced degree of protection. I have already indicated that I do not consider the similarity between the marks to be particularly high.

39. It seems to me that the respective marks will be taken simply for the inherent qualities they possess. In neither mark does the word SMART stand out or send a particularly distinctive message. The marks are distinctive in their totalities but the overall impressions they create do not focus on the word SMART. Therefore, I am left with the view that the consumer is unlikely to confuse the mark DRIVESMART with the mark SMART WEBMOVE in relation to these particular services.

Section 5(4)

40. The opponent has also pleaded two separate grounds of opposition under Section 5(4) of the Act. These relate to the common law tort of passing off. The first relates to the opponent's claim of possessing goodwill in relation to the sign SMART and the second relates to a claim that the opponent has a recognised family of SMART marks.

41. The test setting out the requirements for a successful claim under this ground can be seen in a number of cases including *Wild Child Trade Mark* [1998] RPC 455. In summary, there are three limbs to such a claim: goodwill, misrepresentation and damage. Consistent with my above finding in relation to the opponent's reputation, I find that the opponent did possess a goodwill in this sign at the relevant date. Therefore, to the extent that the opponent has been successful under Section 5(2), I would also find the same under this ground due to the opponent's goodwill together with the parties' potential trade in similar/identical fields of activity (leading to misrepresentation) and consequent damage.

42. In relation to the services where the opponent has failed (advertising, business administration etc), it is important to consider whether the claim to passing off improves their position. The limb of misrepresentation can be summarised as a misrepresentation such that the consumer would believe (as applied to this case) that the advertising and business administration services sought to be offered by the applicant were (due to the opponent's goodwill in the sign SMART) in fact being offered by the opponent.

43. Although there is no general requirement for there to be a common field of activity there does not, on the face of it, appear to be any real link between the sale of cars and the provision of an advertising and business administration services and no basis for concluding that the provision of advertising and business administration service under the mark DRIVESMART would be an invasion of the opponent's goodwill. Therefore, there seems little likelihood that the consumer would come to the belief that would be required of him for me to find in favour of the opponent. When the fields of activity are different, the burden falls on the opponent to prove misrepresentation (see *Stringfellows* [1984] R.P.C. 501); no such evidence has been filed. In the circumstances, I do not consider that the opponent's claim under this ground improves their position in relation to these services.

44. I come to a similar view in relation to apparatus for locomotion by air or water. The goodwill possessed by the opponent in respect of the sign SMART in relation to a

particular model of car is unlikely to be transgressed by the applicant's DRIVESMART mark for potentially quite distinct vehicles that are not even utilised for locomotion on land.

45. The final issue I must deal with is the claim to a family of marks. I shall deal with this fairly quickly because it must be a requirement for such a claim to operate for there to be evidence to demonstrate actual use of a number of marks incorporating the word SMART. The evidence is not convincing on this point (most relating to the mark SMART solus) and I cannot see that this claim will take the opponent's case any further forward.

CONCLUSION

46. The opponent succeeds in relation to the entirety of Classes 36 & 37 and partially in Classes 12 & 35 in relation to:

Class 12: Vehicles; apparatus for locomotion by land; parts and fittings and accessories for the aforesaid.

Class 35: Bringing together for the benefit of others of a variety of goods and services to enable consumers to conveniently view and purchase those goods and services over the Internet on a specialist Internet website relating to the sale of cars, and the provision of financial, insurance and breakdown and maintenance services; provision of information and advice in relation to the aforesaid.

47. In view of the above, and absent appeal from either party, the application will proceed to registration in relation to:

Class 12: Apparatus for locomotion by air or water; parts and fittings and accessories for the aforesaid.

Class 35: Advertising; business administration; business organisation; provision of information and advice in relation to the aforesaid


COSTS


48. The opponent has been successful to a large extent. In view of this, I order the applicant to pay the opponent £1400. This sum is to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 9th day of November 2006


OLIVER MORRIS
For the Registrar
the Comptroller-General
ANNEX



<p>SMARTMOVE</p>	<p>Community trade mark 937599 in respect of:</p> <p>Class 09: Apparatus for the transmission of data, languages and other information.</p> <p>Class 37: Motor vehicle maintenance and repair.</p> <p>Class 39: Vehicle towing, transport of passengers and goods in vehicles of all kinds; travel arrangement, arrangement of tourist services, car rental.</p> <p>Class 42: Engineering services; engineering surveying; computer programming; temporary accommodation reservations; providing of food and drink and temporary accommodation.</p>
<p>SMARTSTER</p>	<p>Community trade mark 1058999 in respect of:</p> <p>Class 03: Cosmetics, eau de toilette, shaving lotions and hair lotions; perfumery, essential oils, soaps, room sprays, dentifrices, nail polish, nail care preparations, lipsticks, eyebrow pencils, mascara.</p> <p>Class 09: Sound and image carriers, namely cassettes, audio tapes, compact discs, video cassettes; spectacles, spectacle frames, spectacle cases; compasses.</p> <p>Class 12: Vehicles and parts therefor (included in class 12).</p> <p>Class 16: Printed matter, pictures, posters, pamphlets, periodicals.</p> <p>Class 18: Handbags, briefcases, shopping bags, rucksacks, trunks and travelling bags, umbrellas and parasols, covers, pocket wallets, purses.</p> <p>Class 25: Clothing, namely T-shirts, neck ties, gloves, anoraks, ponchos, jackets, waistcoats, sweaters, polo shirts, scarves, belts; footwear; headgear, namely hats, caps, helmets, caps for drivers of convertibles.</p> <p>Class 37: Motor vehicle maintenance and repair</p>

 smart webmove	<p>Community trade mark 2086353 in respect of:</p> <p>Class 07: Machines for the manufacture and repair of land, air and water vehicles.</p> <p>Class 09: Apparatus for recording, transmission or reproduction of sound or images, data processing equipment and computers.</p> <p>Class 12: Vehicles; apparatus for locomotion by land, air or water.</p> <p>Class 35: Advertising; business management services; business administration; office functions.</p> <p>Class 37: Vehicle diagnosis and maintenance, maintenance of the electronic functions (software) of vehicles; the aforesaid services by means of electronic communications (e-repair).</p> <p>Class 38: Telecommunications.</p> <p>Class 39: Transport, travel arrangements.</p> <p>Class 41: Training, entertainment, sporting and cultural activities.</p> <p>Class 42: Providing of food and drink; temporary accommodation; medical care, hygienic and beauty care, computer programming.</p>
SMART WEBMOVE	<p>Community trade mark 2086288 in respect of:</p> <p>Class 07: Machines for the manufacture and repair of land, air and water vehicles.</p> <p>Class 09: Apparatus for recording, transmission or reproduction of sound or images, data processing equipment and computers.</p> <p>Class 12: Vehicles; apparatus for locomotion by land, air or water.</p> <p>Class 35: Advertising; business management services; business administration; office functions.</p>

	<p>Class 37: Vehicle diagnosis and maintenance, maintenance of the electronic functions (software) of vehicles;the aforesaid services by means of electronic communications (e-repair).</p> <p>Class 38: Telecommunications.</p> <p>Class 39: Transport, travel arrangements.</p> <p>Class 41: Training, entertainment, sporting and cultural activities.</p> <p>Class 42: Providing of food and drink; temporary accommodation; medical, hygienic and beauty care, computer programming.</p>
MCC SMART	<p>United Kingdom trade mark 2038126 in respect of:</p> <p>Class 12: Motor vehicles; parts of motor vehicles.</p> <p>Class 37: Services relating to the upkeep, repair, servicing, maintenance, care, cleaning and restoration of vehicles; installation services for parts of vehicles.</p> <p>Class 39: Transport services for passengers and freight; vehicle transport services; arrangement of travel; services relating to vehicle leasing, hire or rental;but not including bus passenger transport services and travel services relating thereto.</p> <p>Class 41: Educational services relating to transport and traffic management; driving and road safety training services.</p> <p>Class 42: Services relating to technical and scientific surveys related to motor vehicles or the motor trade; provision of temporary accommodation for guests; services for the care of guests, travel agency services; services relating to the provision of parking places for vehicles.</p>
	<p>Community trade mark 140236 in respect of:</p> <p>Class 12: Vehicles and parts therefor (included in class 12).</p>

	<p>Class 36: Insurance brokerage, including legal expenses insurance, hire-purchase of motor vehicles; clearing of bills in relation to replacement vehicles for hire-purchase or rented vehicles.</p> <p>Class 37: Car maintenance, in particular cleaning, servicing and repair, including the replacement of all parts and accessories necessary to maintain operating ability.</p> <p>Class 39: Arranging replacement vehicles for hire-purchase or rented vehicles, arranging of parking places for motor vehicles, transport of passengers and goods and motor vehicles; travel arrangement and organisation, arranging of motor vehicle transport.</p> <p>Class 41: Driving and safety instruction, training in the field of driving.</p> <p>Class 42: Temporary accommodation and providing of food and drink, technical consultancy and surveying, providing hotel accommodation.</p>
SMART & PURE	<p>Community trade mark 840231 in respect of:</p> <p>Class 12: Vehicles and parts therefor (included in class 12), except airbags and car safety devices.</p> <p>Class 37: Motor vehicle maintenance and repair.</p>
SMART & PULSE	<p>Community trade mark 840256 in respect of:</p> <p>Class 12: Vehicles and parts therefor (included in class 12), except airbags and car safety devices.</p> <p>Class 37: Motor vehicle maintenance and repair.</p>
SMART & PASSION	<p>Community trade mark 840264 in respect of:</p> <p>Class 12: Vehicles and parts therefor (included in class 12), except airbags and car safety devices.</p> <p>Class 37: Motor vehicle maintenance and repair.</p>

SMART & PROFESSIONAL	Community trade mark 1238575 in respect of: Class 12: Automobiles and parts therefor (included in class 12).
SMARTVILLE	Community trade mark 1434232 in respect of: Class 12: Automobiles and parts therefor, included in class 12.
	Community trade mark 1665074 in respect of: Class 07: Automobiles and parts therefor (included in class 7). Class 12: Automobiles and parts therefor (included in class 12). Class 39: Transport of persons and goods by vehicle; arranging of transport; arranging of vehicles.
SMART	Community trade mark 140186 in respect of: Class 12: Vehicles and parts therefor (included in class 12). Class 36: Insurance brokerage, including legal expenses insurance, hire-purchase of motor vehicles; clearing of bills in relation to replacement vehicles for hire-purchase or rented vehicles. Class 37: Car maintenance, in particular cleaning, servicing and repair, including the replacement of all parts and accessories necessary to maintain operating ability. Class 39: Arranging replacement vehicles for hire-purchase or rented vehicles; arranging of parking places for motor vehicles, transport of passengers and goods and motor vehicles, travel arrangement; arranging of motor vehicle transport. Class 41: Driving and safety instruction, training in the field of motoring.

	<p>Class 42: Temporary accommodation and providing of food and drink, technical consultancy and surveying, providing hotel accommodation</p>
	<p>Community trade mark 514034 in respect of:</p> <p>Class 12: Vehicles and parts therefor (included in class 12), except airbags and car safety devices.</p> <p>Class 36: Lease-purchase financing of motor vehicles and the organising and arrangement related thereto, of replacement vehicles for lease-purchase motor vehicles; arranging of insurance.</p> <p>Class 37: Car maintenance, in particular cleaning, maintenance and repair, including the replacement of all parts and accessories necessary for maintaining operating ability.</p> <p>Class 39: Organising of rented vehicles and the arrangement related thereto of replacement vehicles for rented vehicles; arranging parking places for vehicles, transport of persons and goods by vehicle; organizing and arranging travel.</p> <p>Class 41: Driving and safety training; providing of training in the field of motoring.</p> <p>Class 42: Accommodation and catering for guests; technical consultancy and surveying; accommodation services.</p>
	<p>Community trade mark 514091 in respect of:</p> <p>Class 12: Vehicles and parts therefor (included in class 12), except airbags and car safety systems.</p> <p>Class 36: Leasing of vehicles and the organising and charging related to replacement vehicles for leased or rented vehicles; arranging of insurance.</p> <p>Class 37: Car maintenance, in particular cleaning, maintenance and repair, including the replacement of all parts and accessories necessary for maintaining operating ability.</p>

	<p>Class 39: Organising of rented vehicles and the charging related to replacement vehicles for rented vehicles; arranging parking places for vehicles, transport of persons and goods by vehicle; organizing and arranging travel.</p> <p>Class 41: Driving and safety training; providing of training in the field of motoring.</p> <p>Class 42: Accommodation and catering for guests; technical consultancy and surveying; accommodation services.</p>
SMART EDRIIVE	<p>Community trade mark 2492130 in respect of:</p> <p>Class 12: Automobiles and parts therefor, included in class 12.</p>
SMART BOX	<p>Community trade mark 2506426 in respect of:</p> <p>Class 12: Motor vehicles.</p> <p>Class 37: Repair, care and automotive maintenance.</p> <p>Class 39: Rental of motor vehicles, transport of persons and goods by motor vehicle</p>
SMARTSTART	<p>Community trade mark 935015 in respect of:</p> <p>Class 35: Market research, market studies, business consultancy, advertising, negotiating and concluding of contracts for the buying and selling of goods.</p> <p>Class 42: Computer programming, surveying.</p>
Smart-Card	<p>Community trade mark 1400670 in respect of:</p> <p>Class 35: Providing of temporary employees, statistics, auctioneering, marketing research, marketing studies and marketing analysis, shop window dressing, business consultancy, personnel consultancy, negotiating and concluding commercial transactions for others, arranging contracts for the purchase and sale of goods, distribution of goods for advertising purposes, document reproduction, distributing advertising material, advertising, radio and television advertising, cinema</p>

	<p>advertising;all the aforesaid services only relating to motoring.</p> <p>Class 36: Sales financing and credit risk insurance, pawnbrokerage, financial affairs, in particular issuing of travellers' cheques, asset management, exchanging money, capital investment, credit consultancy, credit bureaux, except credit card services;hire-purchase financing, operating of lotteries, insurance brokerage, insurance;all the aforesaid services only relating to motoring;the aforesaid services not automatically provided using a chip card.</p> <p>Class 39: Motor-vehicle rental</p>
SMART	<p>Community trade mark 2157667 in respect of:</p> <p>Class 35: Retailing services relating to the sale of vehicles.</p>
SMART	<p>Community trade mark 2157766 in respect of:</p> <p>Class 35: Sale of goods and services by means of e-commerce in connection with motor vehicles.</p> <p>Class 38: Collecting, processing and transmission of data for determining the location of vehicles and calculating routes for vehicles; internet services, namely providing and retrieval of information on travel data, customer services, vehicle hire and accommodation for use with vehicles; transmission of messages in the form of e-mails, voice mails and SMS (short message services) for use with vehicles.</p>
SMART & SMILE	<p>Community trade mark 2492809 in respect of:</p> <p>Class 37: Repair, care and automotive maintenance.</p>