

O-120-09

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION No 2451462
BY ALTERNATIVE FINANCE GROUP LTD TO REGISTER THE TRADE MARK**



IN CLASSES 36 AND 37

**AND IN THE MATTER OF OPPOSITION
THERE TO UNDER NO 95425
BY NATIONAL WESTMINSTER BANK PLC**

TRADE MARKS ACT 1994

**IN THE MATTER OF Application No. 2451462
by Alternative Finance Group Ltd to register the Trade Mark**



in Classes 36 and 37

and

**IN THE MATTER OF Opposition thereto under No. 95425
by National Westminster Bank Plc**

BACKGROUND

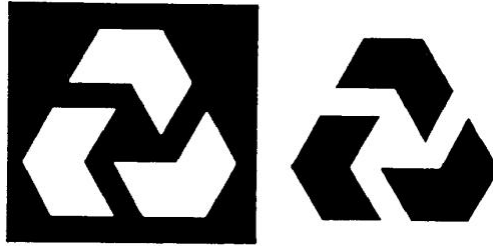
1) On 2 April 2007, Alternative Finance Group Ltd (“AFG”) of 108 Shirecliffe Lane, Shirecliffe, Sheffield, S3 9AE applied under the Trade Marks Act 1994 (“the Act”) for registration of the above trade mark.

2) The application was in respect of the following services:

Class 36: *Investment and savings, mortgages and home finance, commercial and corporate finance, insurance and security, banking and finance, insurance; financial affairs; real estate affairs. This also includes building society services; banking (including home banking); stockbroking; financial services provided on the Internet; providing tokens of value in relation to bonus and loyalty schemes; providing financial information.*

Class 37: *Advisory services relating to development of property, advisory services relating to property development, commercial retail property development services, development (property-), development of property, property development, services of property development.*

3) On 16 August 2007, National Westminster Bank Plc (“NatWest”), of 135 Bishopsgate, London, EC2M 3UR filed notices of opposition to the application. It bases its opposition on Sections 5(2) (b), 5(3) and 5(4) (a) of the Act and is in respect of eight earlier trade marks all including one of the following devices:



Full details of these earlier trade marks can be found in the annex to this decision.

4) NatWest claims to have established a significant goodwill in the UK in its business associated with its “three arrow heads” logo. This logo has been used since 1 January 1970 in respect of a broad range of goods and services including financial services and financial services relating to property. For the purposes of the Section 5(2) (b) and Section 5(3) grounds, NatWest relies upon its eight earlier trade marks where the dominant element is claimed to be the “three arrow heads” logo. It also claims that use of the contested trade mark would be contrary to Section 5(4) (a) of the Act and is liable to be prevented by virtue of the law of passing off based on NatWest’s common law rights in its “three arrow heads” logo.

5) AFG subsequently filed a counterstatement denying that its trade marks offend Sections 5(2) (b), 5(3) and 5(4) (a) of the Act. NatWest are put to strict proof of use regarding its claim to have used its “three arrow heads” logo since 1 January 1970 and regarding its statement of case in respect to the Section 5(2) (b), 5(3) and 5(4) (a) grounds. In any event, AFG claim that it has continually used its trade mark for at least five years on a substantial scale in the UK, such that the Registrar’s honest concurrent user requirements are met.

6) Only NatWest filed evidence and this is summarised below. Both sides seek an award of costs. Neither party wished to be heard, but NatWest filed written submissions in lieu of a hearing.

Opponent’s Evidence

7) This takes the form of a witness statement, dated 17 June 2008, by Neil English, Senior Marketing Manager for Brand Strategy with NatWest. Mr English reiterates that the “three arrow heads” logo has been used continually since January 1970 in relation to a wide variety of financial services including those relating to property. It has been used throughout the UK with NatWest branches in all regions of England, Wales and Scotland.

8) Mr English discloses the following advertising spend:

Year	Advertising Spend (£)
2007	24,997,299
2006	21,924,578
2005	26,793,414
2004	21,500,950
2003	25,935,708

9) He explains that the trade marks have been promoted in various ways including:

- Advertisements in national press, local press and magazines. Exhibit NE1 contains a list of “press insertions” during 2004. This list includes the Daily Mail, Daily Star, Daily Telegraph, Evening Standard, Guardian, Independent, Mirror, Observer, News of the World, Times as well as more specialised publications such as Financial Advisor, Moneyfacts, and Mortgage Introducer. Exhibit NE5 provides copies of pages from newspapers carrying adverts for NatWest. The first is from the Evening Standard, dated 26 February 2003, and appears to relate to a mortgage product. The NatWest name and “three arrow heads” logo appears at the bottom of the advert. The second appeared in the Guardian on 15 August 2005 and carries the same sign. The subject of the advert is not discernable. The third appeared in the Daily Telegraph on 25 February 2006 and again features the same sign. Once again the content is not discernable. Finally, there is an advert appearing in the Sunday Times on 16 September 2007 and promoting NatWest’s ISA/PEP products and carries the same sign as the others.
- On the Internet, through its own website, search engines and banner adverts. Exhibit NE12 provides copies of “screen grabs” of website pages where the “three arrow heads” logo appear. Three of these screen grabs are from Investors Chronicle, the first features an advert appearing in a side banner promoting the opponent’s spread betting and CFD (contracts for difference) account and features the “three arrow heads” logo along side the word NatWest. The second appears to be a pop-up advert for the bank featuring the same sign and the third is the same appearing in a banner at the top of the page and also appears to promote its spread betting services. Two more are of pages from FT.com, again featuring an advert in a banner at the top of the pages incorporating the same sign. The final two are pages from NatWest’s own website promoting its mortgages and life assurance services, again featuring the same sign.

- Television and cinema adverts. Exhibit NE2 contains a list of 91 television appearances of an unspecified advert from 26 March to 1 June 2003. The television channels listed include Channel 4, Channel 5, ITV, S4C, Bravo and numerous different Sky and Discovery channels. Five examples of television adverts are provided on CD-ROM at Exhibit NE3 promoting its personal and business banking services, loan services and credit card services. These adverts finish with either the “three arrow heads” logo together with the words “NATWEST another way” or the “three arrow heads” logo and the word “NATWEST”. The logo is also visible in the background at some point in four of these adverts.
- Posters, direct mail advertising, door drops, in branch, on cash machines and through exhibitions and events. In particular, Mr English draws attention to NatWest’s sponsorship of English cricket since 1982, the Everywomen awards since 2001, the International Island Games Association since at least 1998. Exhibit NE4 consists of screenshots of web pages illustrating these sponsorship activities. The first of these is a series of screenshots dated 24 April 2008 of pages from the website www.natwestseries.com. These pages include numerous references to “NatWest Cricket” and “The NatWest One Day International Series” together with a number of placements of the “three arrow heads” logo and the word “NatWest”. The website also includes the text “NatWest has supported English Cricket both domestically and internationally, as well as at Grassroots level since 1981”. The second of these consists of two screen shots of the Everywomen website. Everywomen is described as being the UK’s leading provider of resources and support services for women in business. The page carries a banner declaring “[e]verywomen is sponsored by” followed by the NatWest sign incorporating the “three arrow heads” logo. Finally, there is a screen shot of a page from the website www.islandgames.net providing information about the “NatWest Sports Development Programme”. A banner at the bottom of this page declares that NatWest is the “[o]fficial sponsor to the IGA and the NatWest Island Games” followed by the NatWest sign incorporating the “three arrow heads” logo.
- On the fascia of branches throughout the UK. Exhibit NE7 is a table recording the numbers of branches in the different regions of the UK. These total 1,627 and are spread across most regions with the exception of Northern Ireland. Examples of these fascias are provided at Exhibit NE8 which consists of copies of seven photographs of the front of NatWest branches all featuring the “three arrow heads” logo, six where it appears in conjunction with the word NatWest and one where it appears alone. One is dated 15 October 2006, the others are undated.
- On cash machines. The bank operates over 3,200 cash machines, a complete list of which is provided at Exhibit NE9. Mr English states that all

of these feature the trade mark. Exhibit NE10 consists of a photograph of one of these machine showing use of the “three arrow heads” sign.

10) In addition, at Exhibit NE6, Mr English provides a copy of a report on the World’s top banking brands, dated January 2008. He explains that it is produced by Brand Finance, an independent consultancy. NatWest is ranked 20th most valuable financial brand in the world in 2007 (up from 24th in 2005) and the “three arrow heads” symbol appears alongside the bank’s entry in the report together with the name NatWest.

11) Mr English also provides, at Exhibit NE11, details of the number of account holders at the bank. I will not reproduce full details here, but the exhibit covers the period January 2004 to November 2007. During this time, the total number of account holders rose from 8,145,148 to 9,022,637 and numbered 8,805,068 in the month prior to the filing of the contested application.

DECISION

Section 5(2)(b)

12) Section 5(2)(b) reads:

“(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.”

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

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

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

14) Of potential relevance to a ground of opposition under Section 5(2) are the

provisions that relate to proof of use. Section 6A(1) details the circumstances where these provisions apply:

“6A Raising of relative grounds in opposition proceedings in case of non-use

(1) This section applies where –

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

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

(c) the registration procedure for the earlier trade mark was completed before the start of the period of five years ending with the date of publication.”

15) NatWest relies upon eight earlier rights, all except CTM 5624168 and CTM 5624515 are registered and therefore qualify as earlier marks as defined by Section 6 of the Act. The two unregistered trade marks relate to the “three arrow heads” logo appearing with the word “NatWest” and are in respect to a list of services no wider than some of the registered trade marks relied upon. As such, these two applications do not improve on NatWest’s best case and I will not refer to them further.

16) Of the remaining six earlier rights, registrations 938334, 1278206 and 1438072 have completed registration procedures that predate, by more than five years, the publication of AFG’s trade mark (the relevant date) and as such, fall foul of the proof of use provisions. However, these earlier rights do not advance NatWest’s case over and above that represented by registration 1278206 and more particularly, CTM 4318978, neither of which are subject to the proof of use requirements. As such I do not intend to explore the issue of proof of use in respect to those earlier rights that completed the registration procedure more than five years before the relevant date. I will focus my analysis on the likelihood of confusion with, in particular, NatWest’s registration CTM 4318978.

17) In my consideration of a likelihood of confusion, I take into account the guidance from the settled case law provided by the ECJ in *Sabel BV v Puma AG* [1998] RPC 199, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc* [1999] RPC 117, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* [2000] F.S.R. 77, *Marca Mode CV v Adidas AG & Adidas Benelux BV* [2000] E.T.M.R. 723, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH* C-120/04 and *Shaker di L. Laudato & C. Sas v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)* C-334/05 P (LIMONCELLO). It is clear from these cases that:

- (a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors; *Sabel BV v Puma AG*,
- (b) the matter must be judged through the eyes of the average consumer of the goods/services in question; *Sabel BV v Puma AG*, 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; *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel B.V.*,
- (c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details; *Sabel BV v Puma AG*,
- (d) the visual, aural and conceptual similarities of the marks must therefore be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components; *Sabel BV v Puma AG*,
- (e) a lesser degree of similarity between the marks may be offset by a greater degree of similarity between the goods, and vice versa; *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*,
- (f) there is a greater likelihood of confusion where the earlier trade mark has a highly distinctive character, either *per se* or because of the use that has been made of it; *Sabel BV v Puma AG*,
- (g) in determining whether similarity between the goods or services covered by two trade marks is sufficient to give rise to the likelihood of confusion, the distinctive character and reputation of the earlier mark must be taken into account; *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*,
- (h) mere association, in the sense that the later mark brings the earlier mark to mind, is not sufficient for the purposes of Section 5(2); *Sabel BV v Puma AG*,
- (i) further, 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; *Marca Mode CV v Adidas AG and Adidas Benelux BV*,
- (j) but if the association between the marks causes the public to wrongly believe that the respective goods come from the same or economically

linked undertakings, there is a likelihood of confusion within the meaning of the section; *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc.*

(k) assessment of the similarity between two marks means more than taking just one component of a composite trade mark and comparing it with another mark; the comparison must be made by examining each of the marks in question as a whole, which does not mean that the overall impression conveyed to the relevant public by a composite trade mark may not, in certain circumstances, be dominated by one or more of its components; *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*

(l) it is only when all other components of a complex mark are negligible that it is permissible to make the comparison on the basis of the dominant element; *Shaker di L. Laudato & C. Sas v OHIM (LIMONCELLO)*

Comparison of services

18) In assessing the similarity of goods, it is necessary to apply the approach advocated by case law and all relevant factors relating to the respective goods and services should be taken into account in determining this issue. In *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer* the ECJ stated at paragraph 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 are complementary.’

19) Other factors may also be taken into account such as, for example, the distribution channels of the goods concerned (see, for example, paragraph 53 of the judgment of the Court of First Instance (CFI) in Case T-164/03 *Ampafrance S.A. v OHIM – Johnson & Johnson (monBeBé)*).

20) NatWest, in its written submission contends that the wide term “financial services” present in its specification encompasses all the services covered in Class 36 of the contested application and notes that, additionally, a number of services specifically listed in AFG’s Class 36 specification are identical to specific terms listed in NatWest’s registration. I concur that these services are identical. More specifically, I consider the following list of AFG’s services as being identical or included in the corresponding NatWest services:

Terms covering identical services	
AFG	NatWest
investment and savings	financial services; financial investment services; savings services
mortgages and home finance	financial services; mortgage services; financing of loans; loans (financial) against security
insurance	insurance services; life insurance brokerage, life insurance underwriting, agencies for non-life insurance, claim adjustment for non-life insurance, non-life insurance underwriting, insurance actuarial services
banking and finance; financial affairs; banking (including home banking); financial services provided on the Internet; building society services	financial services; banking services; home banking; internet banking; automated banking services
stockbroking	financial services; securities trading, index fixtures, securities options, overseas market securities futures, underwriting securities, selling securities, handling subscriptions and offerings of securities, providing stock market information
commercial and corporate finance, and security	financial services
real estate affairs	land, land fixture surface rights and land leasing rights
providing tokens of value in relation to bonus and loyalty schemes	financial services
providing financial information	financial services; information relating to financial, banking, ... and investment services provided on-line (not downloadable); information services relating to all of the aforesaid services

21) These terms are either identical, essentially identical and covering the same services or are a subset of the corresponding broader term. Therefore, it follows that, within the context of the *Canon* criteria, their nature, intended purpose and method of use can all be identical and they can be considered as being in competition with each other.

22) NatWest also argues that its earlier registered rights relating to land and property are complementary to all of AFG's Class 37 services. In particular, it relies upon its "land, land fixture surface rights and land leasing rights" and "mortgage services" in Class 36. Without further explanation, there is an element of ambiguity in the first of these terms. Mr Justice Jacob in *Avnet* [1998] FSR 16 commented that:

"... 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."

23) With this guidance in mind, I will take a look at what these terms are likely to mean within the context of Class 36. From a reading of the Class heading, they must be in the form of "insurance, financial or real estate agency services" that relate to "land, land fixture surface rights and land leasing rights" and therefore are somewhat different to the property development type services claimed by AFG. NatWest's services will provide the customer with access to financial support, insurance or knowledge of land that is for sale or lease and deal with the administration of the sale or lease of the same. These services are distinctly different from those who undertake property development in the form of building construction and repair as covered by AFG's Class 37 specification. Further, the type of undertaking that provides these respective services is normally different. On the one hand, you have banks, building societies, estate agents and insurance companies. On the other, you have construction and building companies. As such, I find that these respective services are not in competition with each other. Similarly, and for the same reasons, I also find that NatWest's "mortgage services" are not in competition any of AFG's Class 37 services. However, I also need to consider if they are complementary to each other.

24) According to the case-law of the CFI in relation to the analogous provision of the Community Trade Mark Regulation 40/94, goods are complementary if 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 the production of those goods lies with the same undertaking: *Sergio Rossi SpA v OHIM – Sissi Rossi*, Case T-169/03. On this basis the CFI has held that wine and wine glasses are not complementary, but that there is a slight similarity between some types of bags in Class 18 and shoes and clothing in Class 25: *El Corte Ingles S.A. v OHIM*, Case T-443/05.

25) I have already identified that the type of undertaking providing the respective services are different. It follows that the customer will not expect the respective services to be provided by the same undertaking. Further, the mortgaging or leasing of land is not indispensable for property development. In some cases, they may both be required by a customer but this is not to say that the either is indispensable or even important for the other. I therefore find that the respective services are not complementary.

26) I conclude that, on balance, in respect to the non-identical services, the level of similarity is low.

The average consumer

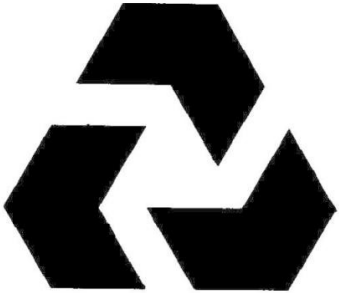

27) As matters must be judged through the eyes of the average consumer (*Sabel BV v. Puma AG*, paragraph 23) it is important that I assess who the average consumer is for the goods and services at issue. I will limit my analysis to identifying the average consumer with respect to NatWest's Class 36 services and all of AFG's services because NatWest's best case, in the main, is served by these services. The average consumer for financial services can be either the general public or commercial undertakings. There is no evidence regarding the nature of the purchasing act but, it is my experience that, this is normally reasonably well considered with potential customers taking note of charges, interest rates, price comparisons, accessibility of services etc before entering into the purchasing act. I do not believe that this would be appreciatively different for personal or commercial banking or other financial activities.

28) In respect of the property development services that make up AFG's Class 37 specification of services, the average consumer may also be an individual or a commercial undertaking. As financial services are accessed by a large proportion of the population, it will follow that on this general level, there will be some overlap with the part of the population that also wishes to access property development services, but essentially the respective relevant consumers will be different. The purchasing act for such services will also be well considered, with considerations such as the quality and cost being important as well as availability and timeliness.

29) As both sets of services require a well considered purchasing act, it follows that the relevant consumers will have a greater ability to discern between trade marks and the undertakings providing the respective services when compared with, for example, the purchasing act involved in the trade of a common consumer item.

Comparison of marks

30) For ease of reference, the respective trade marks are:

Opponent's trade mark	Applicant's trade mark
	

31) When assessing the extent of similarity between the respective trade marks, I must do so with reference to their visual, aural and conceptual similarities bearing in mind their distinctive and dominant components (*Sabel BV v. Puma AG*, para 23).

32) From the visual perspective, NatWest argue that the device element of AFG's trade mark is dominant and as a fall back, that if it is not considered to be the dominant element then it still performs an independent distinctive role. In comparing the two device elements, it further contends that both form an irregular hexagon shape comprising of interlocking arrow devices arranged around a central triangle. I concur with the view that the device element constitutes the dominant element of AFG's trade mark, but I am mindful of the comments of the ECJ in *Medion* that I must not merely take this component and compare it with NatWest's trade mark. However, from a visual perspective, at least, this device element in AFG's trade mark is more than three times larger than the word elements which appear below the device. The device element, as NatWest contends, does share a number of similarities with the earlier trade mark. Both are constructed from three arrowhead devices pointing outwards from the centre to form a shape that resembles a hexagon. They differ in that the device element of AFG's trade mark consists of "chevron" like arrow heads that interlock more closely than the solid block arrow heads of NatWest's device and the "arrows" in AFG's device point in different directions to those in NatWest's device. However, I doubt whether this final difference would be noticed by the relevant consumer unless they were presented with the opportunity to consider both trade marks side-by-side.

33) Of course, AFG's trade mark also contains the words "Alternative Finance Group" and "Putting faith into finance". NatWest, in its statement of grounds, expressed the view that the words "Alternative Finance Group" are not particularly distinctive and the words "Putting faith into finance" is descriptive for any services "relating to Islamic finance services". It concludes that because of this, the device element forms the distinctive element. Certainly, these word elements are not of the highest level of distinctiveness, but it is not possible to conclude that they are negligible within the meaning attributed in *LIMONCELLO*. As such, I do not accept NatWest's inference that the comparison of the

respective trade marks should be made on the comparison of its trade mark with the device element in AFG's trade mark.

34) Nevertheless, taking all these factors into account and viewing the respective trade marks as a whole, I find that they share a reasonably high level of visual similarity.

35) Aurally, the respective trade marks share no similarity as the NatWest trade mark contains no word element and as such will have no aural identity. From a conceptual view point, the NatWest trade mark does not conjure up any conceptually identity as it contains no words and the device element is abstract in nature. On the other hand, AFG's trade mark is imbued, by virtue of its word elements, with the conceptual identity of a group of companies or individuals providing financial services that are alternative in nature. As such, the respective trade marks are neither conceptually similar nor dissimilar.

36) In conclusion, there is no aural similarity between the respective trade marks and conceptually, they are neither similar or dissimilar, but they share a reasonable high level of visual similarity. On balance, these factors combine to result in a moderate level of similarity between the respective trade marks.

Use and distinctive character of the earlier trade marks

37) NatWest's trade mark consists solely of the "three arrow head" device which has no conceptual identity and as such, it enjoys a high level of inherent distinctive character in relation to the relevant services.

38) I must also consider the effect of reputation on the global consideration of a likelihood of confusion under Section 5(2)(b) of the Act. This was considered by David Kitchen Q.C. sitting as the Appointed Person in *Steelco Trade Mark* (BL O/268/04). Mr Kitchen concluded at paragraph 17 of his decision:

"The global assessment of the likelihood of confusion must therefore be based on all the circumstances. These include an assessment of the distinctive character of the earlier mark. When the mark has been used on a significant scale that distinctiveness will depend upon a combination of its inherent nature and its factual distinctiveness. I do not detect in the principles established by the European Court of Justice any intention to limit the assessment of distinctiveness acquired through use to those marks which have become household names. Accordingly, I believe the observations of Mr. Thorley Q.C in *DUONEBS* should not be seen as of general application irrespective of the circumstances of the case. The recognition of the earlier trade mark in the market is one of the factors which must be taken into account in making the overall global assessment of the likelihood of confusion. As observed recently by Jacob L.J. in *Reed Executive & Ors v Reed Business Information Ltd & Ors*, EWCA Civ 159,

this may be particularly important in the case of marks which contain an element descriptive of the goods or services for which they have been registered. In the case of marks which are descriptive, the average consumer will expect others to use similar descriptive marks and thus be alert for details which would differentiate one mark from another. Where a mark has become distinctive through use then this may cease to be such an important consideration. But all must depend upon the circumstances of each individual case.”

39) For the purposes of considering if NatWest’s trade mark benefits from an enhanced distinctive character by virtue of the use made of it, it is necessary for me to consider the scale of use in the UK. To this end, NatWest claims use in the UK since 1970. Its evidence is somewhat patchy considering the implied large size and scope of the business. No turnover figures are provided, no specific evidence has been provided to demonstrate use since 1970 (despite being put to proof of use on this point) and the evidence is far from extensive in demonstrating the range of services provided by NatWest. What is discernable from the evidence is that it has spent a huge amount on promotion with annual promotional spend well in excess of £20 million a year in the five years up to the relevant date. This has been spent on adverts on national television, national press and magazines as well as local press, and major sponsorship of UK sport, notably cricket. There is evidence of 1,627 branches across the UK and exhibits showing its adverts illustrate that NatWest provide banking services for both individuals and businesses, loan services, credit card services, tax free savings products, mortgages, life assurance services and spread betting and CFD account services.

40) This evidence is sufficient, however, for me to conclude that, at least for the services listed in the previous paragraph, NatWest enjoys a considerable reputation in the UK which extends back a number of years. I am unable to conclude that it has traded using this trade mark since 1970 or that it has a reputation for the wider financial services listed or for real estate agency services. I therefore find that the NatWest trade mark benefits from an enhanced distinctive character in respect of banking services for both individuals and businesses, loan services, credit card services, tax free savings products, mortgages, life assurance services and spread betting and CFD account services.

Likelihood of confusion

41) I must adopt the global approach advocated by case law and take into account that marks are rarely recalled perfectly with the consumer relying instead on the imperfect picture of them he has in kept in his mind (*Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V* paragraph 27). Looking at the likelihood of confusion in respect to the identical (Class 36) services, I find that the impact of the visual similarity between the respective trade marks, together

with the identity of services overrides the differences in the respective trade marks. I also give due notice to the purchasing act being one that is reasonably considered. Therefore, having consideration for all the relevant factors, I conclude that there is a likelihood of confusion for these services. These similarities would lead the relevant public into believing that the respective Class 36 services originate from the same or economically linked undertaking.

42) However, as I have concluded that there is low similarity between NatWest's Class 36 services and AFG's Class 37 services, I find that there is no likelihood of confusion in respect to these services.

43) For the avoidance of doubt, I wish to make a reference to one additional point. Although not argued by NatWest, its "printed matter" listed in its Class 16 specification of goods could include such goods relating to "property development". As such, the level of similarity of these respective goods and services will be higher than in respect of the Class 36 services actually relied upon by NatWest in its submissions. I have considered this point, but despite this higher level of similarity increasing the strength of NatWest's case, it remains my opinion that, taking all factors into account, there is no likelihood of confusion in respect of AFG's Class 37 services and any of NatWest's goods and services.

44) Further, in its counterstatement, AFG claims that its trade mark has been used continually on a substantial scale in the UK for five years and that it has spent £2 million since 2003 on promotion of the trade mark. It further claims that such a scale of use will satisfy the registrar's honest concurrent use requirements as set out in Section 7 of the Act and that it would be proven to the satisfaction of the Registrar. Despite this comment, AFG failed to support this claim with any evidence and therefore I am unable to give any significant weight to this point. However, for the record, if "honest concurrent use" is to play a meaningful role in the assessment of the likelihood of confusion I must be satisfied that the parties have traded in circumstances that suggest consumers have been exposed to both marks and have been able to differentiate between them without confusion as to trade origin (the Court of Appeal in *The European Ltd v. The Economist Newspaper Ltd* [1998] FSR 283 at page 291, Laddie J in *Compass Publishing BV v. Compass Logistics Ltd* [2004] RPC 41 at 809, the Court of Appeal in *Phones 4U Ltd v. Phone 4u.co.uk Internet Ltd* [2007] RPC 5 at paragraphs 42 to 45 and Alan Steinfield QC, sitting as a deputy judge of the High Court, in *Fiorelli Trade Mark* [2007] RPC 18). That cannot be the case where, as here, there is no evidence at all in relation to AFG's trade mark.

45) I therefore find there is likelihood of confusion in respect to AFG's Class 36 services only but in respect to AFG's Class 37 list of services, the opposition under Section 5(2) (b) fails.

Section 5(4) (a)

46) Taking account of my findings under Section 5(2) (b), NatWest is no better off under Section 5(4) (a) and as such, I do not need to discuss these grounds further.

Section 5(3)

47) I turn to consider the ground for opposition under Section 5(3) of the Act which reads as follows:

“5.-(3) A trade mark which –

(a) is identical with or similar to an earlier trade mark,

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

48) The scope of Section 5(3) has been considered in a number of cases notably *General Motors Corp v Yplon SA* (CHEVY) [1999] ETMR 122 and [2000] RPC 572, *Adidas Salomon AG v Fitnessworld Trading Ltd.* [2004] ETMR 10, *Premier Brands UK Limited v Typhoon Europe Limited* (TYPHOON) [2000] FSR 767, *Daimler Chrysler v Alavi* (MERC) [2001] RPC 42, *C.A. Sheimer (M) Sdn Bhd's TM Application* (VISA) [2000] RPC 484, *Valucci Designs Ltd v IPC Magazines* (LOADED) O/455/00, *Mastercard International Inc and Hitachi Credit (UK) Plc* [2004] EWHC 1623 (Ch), *Electrocoin Automatics Limited and Coinworld Limited and others* [2005] FSR 7 and *Davidoff & Cie SA v Gofkid Ltd* (DAVIDOFF) [2003] ETMR 42.

49) The applicable legal principles arising from these cases are as follows:

a) ‘Reputation’ for the purposes of Section 5(3) means that the earlier trade mark is known by a significant part of the public concerned with the products or services covered by that trade mark (paragraph 26 of the ECJ’s judgment in *General Motors Corp. v Yplon SA* (CHEVY) [1999] ETMR 122).

b) Under this provision the similarity between the trade marks does not have to be such as to give rise to a likelihood of confusion between them; the provision may be invoked where there is sufficient similarity to cause the relevant public to establish a link between the earlier trade mark and

the later trade mark or sign, *Adidas Salomon v Fitnessworld*, paragraphs 29-30.

c) The stronger the earlier trade mark's distinctive character and reputation the easier it will be to accept that detriment has been caused to it (per Neuberger J. in *Premier Brands*, and the ECJ in *CHEVY*, paragraph 30).

d) Unfair advantage is taken of the distinctive character or the repute of the earlier trade mark where there is clear exploitation and free-riding on the coat-tails of a famous trade mark or an attempt to trade upon its reputation: *Spa Monopole v OHIM*.

50) To these, I would also add the following legal principles that have arisen from the recent ECJ judgement in *Intel Corporation Inc. v CPM United Kingdom Ltd (INTEL) C-252/07*:

a) Whether there is a link, within the meaning of *Adidas-Salomon and Adidas Benelux*, between the earlier trade mark with a reputation and the later trade mark must be assessed globally, taking into account all factors relevant to the circumstances of the case.

b) The fact that, for the average consumer, who is reasonably well informed and reasonably observant and circumspect, the later mark calls the earlier mark with a reputation to mind is tantamount to the existence of such a link between the conflicting trade marks, within the meaning of *Adidas-Salomon and Adidas Benelux*.

c) Whether use of the later trade mark takes or would take unfair advantage of, or is or would be detrimental to, the distinctive character or the repute of the earlier mark, must be assessed globally, taking into account all factors relevant to the circumstances of the case.

d) The use of the later mark may be detrimental to the distinctive character of the earlier mark with a reputation even if that mark is not unique; a first use of the later mark may suffice to be detrimental to the distinctive character of the earlier mark; proof that the use of the later mark is or would be detrimental to the distinctive character of the earlier mark requires evidence of a change in the economic behaviour of the average consumer of the goods or services for which the earlier mark was registered consequent on the use of the later mark, or a serious likelihood that such a change will occur in the future.

51) As NatWest have been successful under its Section 5(2) (b) grounds in its attack against all of AFG's Class 36 list of services, I will limit my considerations as to whether NatWest's case is any better under its Section 5(3) grounds. In

other words, I will go on to consider NatWest's case only against AFG's surviving Class 37 list of services.

52) In its grounds for opposition, NatWest claimed use of AFG's trade mark would take unfair advantage of or be detrimental to the distinctive character or the repute of the opponent's earlier trade marks. There is little elaboration on this issue, but In its written submissions, NatWest does go on to give an example, saying that "the targets consumers of the applicant's services would assume that a commercial connection exists between the applicant and opponent, when in fact the opponent has no control over the use of the applicant's mark and the quality of services provided by the applicant under this mark".

53) Firstly, it is necessary for NatWest to establish that the earlier trade marks enjoyed a reputation at the relevant date. The *CHEVY* case, at paragraph 27, states that the relevant facts to be taken into account for assessing a reputation are: "in particular, the market share held by the trade mark, the intensity, geographical extent and duration of its use, and the size of the investment made by the undertaking in promoting it". The ECJ were not necessarily intending this list to be prescriptive, but it is a point from which I will begin. Regarding market share, NatWest's have provided (at Exhibit NE6) a copy of Brand Finance's independent report on the World's top banking brands where NatWest was recognised as the 20th most valuable financial brand in the world. In terms of reputation in the UK, NatWest supplement this report by providing evidence of the existence of 1627 UK branches and 3200 cash machines as well as very extensive national promotional activities with the evidence supporting extensive activities since at least 2003. This extensive use has been shown to be in relation to "banking services for both individuals and businesses, loan services, credit card services, tax free savings products, mortgages, life assurance services and spread betting and CFD account services" (see paragraph 37 above).

54) Taking all of the above into account, I am content that the evidence illustrates use that is sufficient to establish a reputation amongst a substantial proportion of the relevant public and in respect to the services listed above.

55) Having established the existence and scope of a reputation, I need to go on to consider the existence of the necessary link. I am mindful of the recent comments of the ECJ in *INTEL* that it is sufficient for the later trade mark to bring the earlier trade mark with a reputation to mind for the link, within the meaning of *Adidas-Salomon and Adidas Benelux*, to be established. The ECJ also set out the factors to take into account when considering if the necessary link exists:

"41. The existence of such a link must be assessed globally, taking into account all factors relevant to the circumstances of the case (see, in respect of Article 5(2) of the Directive, *Adidas-Salomon and Adidas Benelux*, paragraph 30, and *adidas and adidas Benelux*, paragraph 42).

42. Those factors include:

- the degree of similarity between the conflicting marks;
- the nature of the goods or services for which the conflicting marks were registered, including the degree of closeness or dissimilarity between those goods or services, and the relevant section of the public;
- the strength of the earlier mark’s reputation;
- the degree of the earlier mark’s distinctive character, whether inherent or acquired through use;
- the existence of the likelihood of confusion on the part of the public.”

56) The respective trade marks share a moderate level of similarity, but the respective services share a low level of similarity and the relevant public may, in some cases, overlap. But essentially, NatWest’s relevant public are those who are seeking financial and similar services whereas AFG’s relevant public are individuals or businesses wishing to undertake development of property. I do note however, that NatWest enjoys a strong reputation in respect of its banking and associated services and that its trade mark enjoys a high level of distinctive character by virtue of its inherent qualities and because it is enhanced through the use made of it. However, I found that there was no likelihood of confusion in respect of AFG’s Class 37 services.

57) I am mindful that the link must be real and not theoretical in its effect (*Intel v. Sihra* and *Intel Corporation Inc v. CPM United Kingdom Ltd*). I am also mindful that the provision is not aimed at every sign whose use may stimulate the relevant public to recall a trade mark which enjoys a reputation with them (*Premier Brands UK Limited v. Typhoon Europe Limited*). Taking all of the factual points, listed above, into account and also the guidance provided by the various authorities and in particular taking account of the distance between the respective services, the different consumers and the fact that AFG’s trade mark is a composite mark incorporating words identifying the trade source that is not obviously the opponent, I find that AFG’s trade mark would not bring NatWest’s trade mark to mind when used in respect to property development and associated services as listed in AFG’s Class 37. Having established that the necessary link does not exist, I do not need to go on to consider the issue of unfair advantage and detriment. Therefore, in respect to AFG’s Class 37 services, I find that the opposition under Section 5(3) fails.

Costs

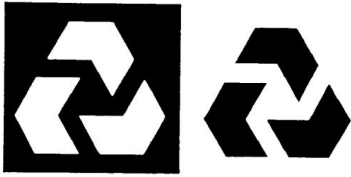
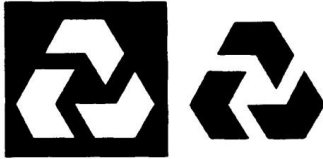

58) Both sides have achieved a measure of success. Therefore, I do not propose to favour either party with an award of costs.

Dated this 7th day of May 2009

**Mark Bryant
For the Registrar,
the Comptroller-General**

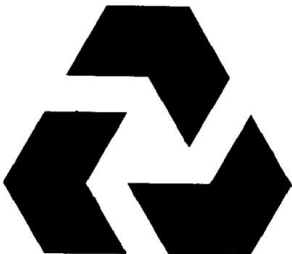
ANNEX

List of opponent's earlier marks

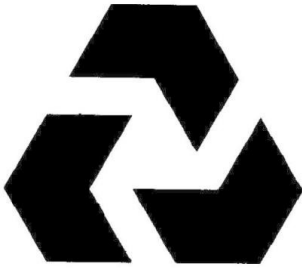
Trade Mark	List of Goods and Services
<p>1278206</p> 	<p>Class 35: <i>Advisory and information services, all relating to business and to commerce; all included in Class 35</i></p> <p>Class 36: <i>Financial services included in Class 36.</i></p>
<p>1438072</p> 	<p>Class 09: <i>Computers and data processing apparatus and instruments, visual display units and printers for use with the aforesaid goods, modems; parts and fittings for all the aforesaid goods; computer programs; all included in Class 9.</i></p> <p>Class 37: <i>Installation, maintenance and repair of computers and data-processing apparatus and installations and of visual display units, modems and printers for use with the aforesaid; installation, maintenance and repair of electrical and electronic installations and of computer programs; all included in Class 37.</i></p> <p>Class 42: <i>Professional consultancy and advisory services relating to computers, to data processing apparatus and instruments, to electrical and electronic installations and apparatus and computer programs; all included in Class 42.</i></p>
<p>2344091</p> 	<p>Class 09: <i>Magnetically encoded cards for carrying data; multifunction cards for financial services; charge cards, cash cards, bank cards, cheque cards, credit cards, debit cards; computer software and publications in electronic form supplied on-line from databases or from facilities provided on the Internet (including web pages and web sites); computer software and telecommunications apparatus (including modems) to enable connection to databases, computer networks and the Internet; computer software to enable searching of data; parts and fittings for all of the</i></p>

	<p><i>aforesaid goods; hand-held devices for payment and value exchange services and other personal information services; ATM (automated teller machine) cards, access cards, identification cards, integrated chip cards and pre-paid cards and supporting systems related thereto; ATM machines, point of sale card readers, remote access devices; data carriers; computer software for the provision of banking services, financial services, bank account management services, monetary transfer services, payment services, financial analysis and financial reports, financial management services; and information services relating to banking and finance; computer software to enable the searching of data relating to the foregoing; publications, newsletters, magazines, periodicals, pamphlets and leaflets, all in electronic form supplied on-line from databases or from facilities provided on the Internet (including web sites); publications, newsletters, magazines, periodicals, pamphlets and leaflets, all in digital or electronic format, or provided by CD-ROM or diskette.</i></p> <p>Class 16: <i>Paper, paper articles and advertising materials; printed matter, stationery, newspapers, periodicals and cheque books; printed publications, newsletters, magazines, pamphlets, leaflets; plastic cards (other than encoded or magnetic); plastic covered cards bearing printed matter.</i></p> <p>Class 35: <i>Accounting services; book-keeping; share registration services; payroll preparations; business appraisals, enquiries, investigations, research and business management advice; business management consulting; advertising and promotion services and information services relating thereto; business and commercial information services, all provided on-line from a computer database, computer network, global computer network or the Internet; compilation of advertisements for use as web pages on the Internet; business management services; business advisory services; compilation of directories for publishing on global computer networks or the Internet; compilation of advertisements for use on or as web pages or web sites on global computer networks or the Internet; provision of space on web</i></p>
--	--

	<p>sites for advertising goods and services; business administration services for the processing of sales made on the Internet; business planning; market analysis and research; data collection, storage and processing; advisory, consultancy and information services relating to all the aforesaid services; personnel payroll services.</p> <p>Class 36: Financial services; banking services; monetary transfer; payment services; automated banking services; home banking; Internet banking; savings services; bill payment services; payment and credit services; credit card, debit card, charge card, cash card and bank card services; cash management; safe deposit services; bankers' clearing services; account debiting services; personnel (payroll) services; escrow services; cheque encashment services; credit brokerage; automatic cash dispensing services; automatic teller machine services; insurance services; financing of loans; loans (financial) against security; financial investment services; capital investment services; trustee services; financial management services; brokers and agents (for bonds and other securities); financial consultation services; investment advice; financial guarantees (surety services); financial analysis and providing reports; financial information services; financial research services; financing services (securing funds for others); financial advisory services; financial services for the provision and purchase of financial and/or credit information; administration of financial affairs; computerised financial services; advice and enquiries regarding credit; financial services for the provision of credit; acceptance of deposits; discount of bills (notes); domestic remittance, liability guarantee, acceptance of bills, lending securities, acquisition and transfer of monetary claims; trustee services; trusteeship of money; futures contracts; securities, monetary claims, personal property, land, land fixture surface rights and land leasing rights; money exchange, foreign exchange transactions, currency exchange services, travellers cheque services; letter of credit-related business, securities trading, index futures, securities options, overseas market securities futures, underwriting securities, selling securities,</p>
--	--

	<p><i>handling subscriptions and offerings of securities, providing stock market information, life insurance brokerage, life insurance underwriting, agencies for non-life insurance, claim adjustment for non-life insurance, non-life insurance underwriting, insurance actuarial services; mortgage services; advisory, consultancy and information services relating to all of the aforesaid services.</i></p> <p>Class 38: <i>Data transmission and transfer services; telecommunication services provided in relation to the Internet; telecommunication of information (including web pages and web sites), computer programs and any other data; electronic mail services; provision of telecommunications access and links to computer databases, computer networks and the Internet; advisory, consultancy and information services relating to all of the aforesaid services.</i></p> <p>Class 42: <i>Legal services; providing access to and leasing access time to computer databases and computer networks; computer rental; design, drawing and commissioned writing, all for the compilation of web pages and web sites on the Internet; information provided on-line from a computer database or from the Internet; advisory, consultancy and information services relating to all of the aforesaid services; company registration services; legal services (business).</i></p>
<p>938334</p> 	<p>Class 16: <i>Paper, paper articles and cardboard articles, all included in Class 16; printed matter, books and stationery.</i></p>

CTM4318978




Class 09: *Magnetically encoded cards for carrying data; multifunction cards for financial services; charge cards, cash cards, bank cards, cheque cards, credit cards, debit cards; computer software and publications in electronic form supplied on-line from databases or from facilities provided on the Internet (including web pages and web sites); computer software and telecommunications apparatus (including modems) to enable connection to databases, computer networks and the Internet; computer software to enable searching of data; parts and fittings for all of the aforesaid goods; hand-held devices for payment and value exchange services and for other personal information services; aTM (Automated Teller Machine) cards, access cards, identification cards, integrated chip cards and pre-paid cards and supporting systems related thereto; aTM machines, point of sale card readers, remote access devices; data carriers; computer hardware and software for the provision of banking services, financial services, bank account management services, monetary transfer services, payment services, financial analysis and financial reports, financial management services, and information services relating to banking and finance; computer software to enable the searching of data relating to the foregoing; publications, newsletters, magazines, periodicals, pamphlets and leaflets, all in electronic form supplied on-line from databases or from facilities provided on the Internet (including web sites); publications, newsletters, magazines, periodicals, pamphlets and leaflets, all in digital or electronic format, or provided by CD-ROM or diskette.*

Class 16: *Paper, paper articles and advertising materials; printed matter, stationery, newspapers, periodicals and cheque books; printed publications, newsletters, magazines, pamphlets, leaflets; plastic cards (other than encoded or magnetic); plastic covered cards bearing printed matter.*

Class 35: *Accounting services; book-keeping; share registration services; payroll preparations; business appraisals, enquiries, investigations, research and business management advice;*


	<p><i>business management consulting; advertising and promotion services and information services relating thereto; business and commercial information services, all provided on-line from a computer database, computer network, global computer network or the Internet; compilation of advertisements for use as web pages on the Internet; business management services; business advisory services; compilation of directories for publishing on global computer networks or the Internet; compilation of advertisements for use on or as web pages or web sites on global computer networks or the Internet; provision of space on web sites for advertising goods and services; business administration services for the processing of sales made on the Internet; business planning; market analysis and research; data collection, storage and processing; personnel (payroll) services; advisory, consultancy and information services relating to all of the aforesaid services.</i></p> <p>Class 36: <i>Financial services; banking services; monetary transfer; payment services; automated banking services; home banking; internet banking; savings services; bill payment services; payment and credit services; credit card, debit card, charge card, cash card and bank card services; cash management; safe deposit services; bankers' clearing services; account debiting services; personnel (payroll) services; escrow services; cheque encashment services; credit brokerage; automatic cash dispensing services, automatic teller machine services; insurance services; financing of loans; loans (financial) against security; financial investment services; capital investment services; trustee services; financial management services; brokers and agents (for bonds and other securities); financial consultation services; investment advice; financial guarantees (surety services); financial analysis and providing reports; financial information services; financial research services; financing services (securing funds for others); financial advisory services; services for the provision and purchase of financial and/or credit information; administration of financial affairs; computerised financial services; advice and enquiries regarding credit; financial services for the</i></p>
--	---

	<p><i>provision of credit; acceptance of deposits; discount of bills (notes); domestic remittance, liability guarantee, acceptance of bills, lending securities, acquisition and transfer of monetary claims; trustee services; trusteeship of money; futures contracts; securities, monetary claims, personal property, land, land fixture surface rights and land leasing rights; money exchange, foreign exchange transactions, currency exchange services, travellers cheque services; letter of credit-related business, securities trading, index fixtures, securities options, overseas market securities futures, underwriting securities, selling securities, handling subscriptions and offerings of securities, providing stock market information, life insurance brokerage, life insurance underwriting, agencies for non-life insurance, claim adjustment for non-life insurance, non-life insurance underwriting, insurance actuarial services; mortgage services; information relating to financial, banking, insurance, economical and investment services provided on-line (not downloadable); advisory, consultancy and information services relating to all of the aforesaid services.</i></p> <p>Class 38: <i>Data transmission and transfer services; telecommunication services provided in relation to the Internet; telecommunication of information (including web pages and web sites), computer programs and any other data; electronic mail services; provision of telecommunications access and links to computer databases, computer networks and the Internet; advisory, consultancy and information services relating to all of the aforesaid services.</i></p> <p>Class 41: <i>Education and entertainment services; electronic publications provided on-line (not downloadable); organisation of sporting events and competitions; arranging and conducting of seminars, congresses, conventions, conferences and exhibitions; education and training related to banking, financial, insurance, economic and investment services; publication of advertising material, printed matter, periodicals, newsletters, magazines, pamphlets, leaflets and other text relating to banking, financial, insurance, economic and investment on-line (not downloadable);</i></p>
--	--

	<p><i>advisory, consultancy and information services relating to all of the aforesaid services.</i></p> <p>Class 42: <i>Legal services; computer rental; design, drawing and commissioned writing, all for the compilation of web pages and web sites on the Internet; information provided on-line from a computer database or from the Internet; advisory, consultancy and information services relating to all of the aforesaid services; company registration services; legal services (business); design and development of computer hardware and software.</i></p>
<p>CTM4319001</p> 	<p>Class 09: <i>Magnetically encoded cards for carrying data; multifunction cards for financial services; charge cards, cash cards, bank cards, cheque cards, credit cards, debit cards; computer software and publications in electronic form supplied on-line from databases or from facilities provided on the Internet (including web pages and web sites); computer software and telecommunications apparatus (including modems) to enable connection to databases, computer networks and the Internet; computer software to enable searching of data; parts and fittings for all of the aforesaid goods; hand-held devices for payment and value exchange services and for other personal information services; aTM (Automated Teller Machine) cards, access cards, identification cards, integrated chip cards and pre-paid cards and supporting systems related thereto; aTM machines, point of sale card readers, remote access devices; data carriers; computer hardware and software for the provision of banking services, financial services, bank account management services, monetary transfer services, payment services, financial analysis and financial reports, financial management services, and information services relating to banking and finance; computer software to enable the searching of data relating to the foregoing; publications, newsletters, magazines, periodicals, pamphlets and leaflets, all in electronic form supplied on-line from databases or from facilities provided on the Internet (including web sites); publications, newsletters, magazines, periodicals, pamphlets and leaflets, all in digital or electronic format, or provided by CD-ROM or</i></p>

	<p><i>diskette.</i></p> <p>Class 16: <i>Paper, paper articles and advertising materials; printed matter, stationery, newspapers, periodicals and cheque books; printed publications, newsletters, magazines, pamphlets, leaflets; plastic cards (other than encoded or magnetic); plastic covered cards bearing printed matter.</i></p> <p>Class 35: <i>Accounting services; book-keeping; share registration services; payroll preparations; business appraisals, enquiries, investigations, research and business management advice; business management consulting; advertising and promotion services and information services relating thereto; business and commercial information services, all provided on-line from a computer database, computer network, global computer network or the Internet; compilation of advertisements for use as web pages on the Internet; business management services; business advisory services; compilation of directories for publishing on global computer networks or the Internet; compilation of advertisements for use on or as web pages or web sites on global computer networks or the Internet; provision of space on web sites for advertising goods and services; business administration services for the processing of sales made on the Internet; business planning; market analysis and research; data collection, storage and processing; personnel (payroll) services; advisory, consultancy and information services relating to all of the aforesaid services.</i></p> <p>Class 36: <i>Financial services; banking services; monetary transfer; payment services; automated banking services; home banking; internet banking; savings services; bill payment services; payment and credit services; credit card, debit card, charge card, cash card and bank card services; cash management; safe deposit services; bankers? clearing services; account debiting services; personnel (payroll) services; escrow services; cheque encashment services; credit brokerage; automatic cash dispensing services, automatic teller machine services; insurance services; financing of loans; loans (financial) against security; financial investment services; capital</i></p>
--	---

	<p><i>investment services; trustee services; financial management services; brokers and agents (for bonds and other securities); financial consultation services; investment advice; financial guarantees (surety services); financial analysis and providing reports; financial information services; financial research services; financing services (securing funds for others); financial advisory services; services for the provision and purchase of financial and/or credit information; administration of financial affairs; computerised financial services; advice and enquiries regarding credit; financial services for the provision of credit; acceptance of deposits; discount of bills (notes); domestic remittance, liability guarantee, acceptance of bills, lending securities, acquisition and transfer of monetary claims; trustee services; trusteeship of money; futures contracts; securities, monetary claims, personal property, land, land fixture surface rights and land leasing rights; money exchange, foreign exchange transactions, currency exchange services, travellers cheque services; letter of credit-related business, securities trading, index fixtures, securities options, overseas market securities futures, underwriting securities, selling securities, handling subscriptions and offerings of securities, providing stock market information, life insurance brokerage, life insurance underwriting, agencies for non-life insurance, claim adjustment for non-life insurance, non-life insurance underwriting, insurance actuarial services; mortgage services; information relating to financial, banking, insurance, economic and investment services provided on-line (not-downloadable); advisory, consultancy and information services relating to all of the aforesaid services.</i></p> <p>Class 38: <i>Data transmission and transfer services; telecommunication services provided in relation to the Internet; telecommunication of information (including web pages and web sites), computer programs and any other data; electronic mail services; provision of telecommunications access and links to computer databases, computer networks and the Internet; advisory, consultancy and information services relating to all of the aforesaid services.</i></p>
--	--

	<p>Class 41: <i>Education and entertainment services; electronic publications provided on-line (not downloadable); organisation of sporting events and competitions; arranging and conducting of seminars, congresses, conventions, conferences and exhibitions; education and training related to banking, financial, insurance, economic and investment services; publication of advertising material, printed matter, periodicals, newsletters, magazines, pamphlets, leaflets and other text relating to banking, financial, insurance, economic and investment on-line (not downloadable); advisory, consultancy and information services relating to all of the aforesaid services.</i></p> <p>Class 42: <i>Legal services; computer rental; design, drawing and commissioned writing, all for the compilation of web pages and web sites on the Internet; information provided on-line from a computer database or from the Internet; advisory, consultancy and information services relating to all of the aforesaid services; company registration services; legal services (business); design and development of computer hardware and software.</i></p>
<p>CTM5624168</p> 	<p>Class 09: <i>Magnetically encoded cards for carrying data; multifunction cards for financial services; charge cards, cash cards, bank cards, cheque cards, credit cards, debit cards; computer software and publications in electronic form supplied on-line from databases or from facilities provided on the Internet (including web pages and web sites); computer software and telecommunications apparatus (including modems) to enable connection to databases, computer networks and the Internet; computer software to enable searching of data; parts and fittings for all of the aforesaid goods; hand-held devices for payment and value exchange services and for other personal information services; aTM (Automated Teller Machine) cards, access cards, identification cards, integrated chip cards and pre-paid cards and supporting systems related thereto; aTM machines, point of sale card readers, remote access devices; data carriers; computer hardware and software for the provision of banking services, financial services, bank account management</i></p>

	<p><i>services, monetary transfer services, payment services, financial analysis and financial reports, financial management services, and information services relating to banking and finance; computer software to enable the searching of data relating to the foregoing; publications, newsletters, magazines, periodicals, pamphlets and leaflets, all in electronic form supplied on-line from databases or from facilities provided on the Internet (including web sites); publications, newsletters, magazines, periodicals, pamphlets and leaflets, all in digital or electronic format, or provided by CD-ROM or diskette.</i></p> <p>Class 16: <i>Paper, paper articles and advertising materials; printed matter, stationery, newspapers, periodicals and cheque books; printed publications, newsletters, magazines, pamphlets, leaflets; plastic cards (other than encoded or magnetic); plastic covered cards bearing printed matter.</i></p> <p>Class 35: <i>Accounting services; book-keeping; share registration services; payroll preparations; business appraisals, enquiries, investigations, research and business management advice; business management consulting; advertising and promotional publication of advertising material, n services and information services relating thereto; business and commercial information services, all provided on-line from a computer database, computer network, global computer network or the Internet; compilation of advertisements for use as web pages on the Internet; business management services; business advisory services; compilation of directories for publishing on global computer networks or the Internet; compilation of advertisements for use on or as web pages or web sites on global computer networks or the Internet; provision of space on web sites for advertising goods and services; business administration services for the processing of sales made on the Internet; business planning; market analysis and research; data collection, storage and processing; personnel (payroll) services; advisory, consultancy and information services relating to all of the aforesaid services; publication of advertising material.</i></p>
--	---

	<p>Class 36: <i>Financial services; banking services; monetary transfer; payment services; automated banking services; home banking; internet banking; savings services; bill payment services; payment and credit services; credit card, debit card, charge card, cash card and bank card services; cash management; safe deposit services; bankers? clearing services; account debiting services; personnel (payroll) services; escrow services; cheque encashment services; credit brokerage; automatic cash dispensing services, automatic teller machine services; insurance services; financing of loans; loans (financial) against security; financial investment services; capital investment services; trustee services; financial management services; brokers and agents (for bonds and other securities); financial consultation services; investment advice; financial guarantees (surety services); financial analysis and providing reports; financial information services; financial research services; financing services (securing funds for others); financial advisory services; services for the provision and purchase of financial and/or credit information; administration of financial affairs; computerised financial services; advice and enquiries regarding credit; financial services for the provision of credit; acceptance of deposits; discount of bills (notes); domestic remittance, liability guarantee, acceptance of bills, lending securities, acquisition and transfer of monetary claims; trustee services; trusteeship of money; futures contracts; securities, monetary claims, personal property, land, land fixture surface rights and land leasing rights; money exchange, foreign exchange transactions, currency exchange services, travellers cheque services; letter of credit-related business, securities trading, index fixtures, securities options, overseas market securities futures, underwriting securities, selling securities, handling subscriptions and offerings of securities, providing stock market information, life insurance brokerage, life insurance underwriting, agencies for non-life insurance, claim adjustment for non-life insurance, non-life insurance underwriting, insurance actuarial services; mortgage services; information relating to financial, banking, insurance,</i></p>
--	---

	<p><i>economic and investment services provided on-line (not-downloadable); advisory, consultancy and information services relating to all of the aforesaid services.</i></p> <p>Class 38: <i>Data transmission and transfer services; telecommunication services provided in relation to the Internet; telecommunication of information (including web pages and web sites), computer programs and any other data; electronic mail services; provision of telecommunications access and links to computer databases, computer networks and the Internet; advisory, consultancy and information services relating to all of the aforesaid services.</i></p> <p>Class 41: <i>Education and entertainment services; electronic publications provided on-line (not downloadable); organisation of sporting events and competitions; arranging and conducting of seminars, congresses, conventions, conferences and exhibitions; education and training related to banking, financial, insurance, economic and investment services; publication of printed matter, periodicals, newsletters, magazines, pamphlets, leaflets and other text relating to banking, financial, insurance, economic and investment on-line (not downloadable); advisory, consultancy and information services relating to all of the aforesaid services.</i></p> <p>Class 42: <i>Computer rental; design, drawing and commissioned writing, all for the compilation of web pages and web sites on the Internet; information provided on-line from a computer database or from the Internet; advisory, consultancy and information services relating to all of the aforesaid services; design and development of computer hardware and software.</i></p> <p>Class 45: <i>Legal services; company registration services; legal services (business).</i></p>
--	--

CTM5624515



Class 09: *Magnetically encoded cards for carrying data; multifunction cards for financial services; charge cards, cash cards, bank cards, cheque cards, credit cards, debit cards; computer software and publications in electronic form supplied on-line from databases or from facilities provided on the Internet (including web pages and web sites); computer software and telecommunications apparatus (including modems) to enable connection to databases, computer networks and the Internet; computer software to enable searching of data; parts and fittings for all of the aforesaid goods; hand-held devices for payment and value exchange services and for other personal information services; aTM (Automated Teller Machine) cards, access cards, identification cards, integrated chip cards and pre-paid cards and supporting systems related thereto; aTM machines, point of sale card readers, remote access devices; data carriers; computer hardware and software for the provision of banking services, financial services, bank account management services, monetary transfer services, payment services, financial analysis and financial reports, financial management services, and information services relating to banking and finance; computer software to enable the searching of data relating to the foregoing; publications, newsletters, magazines, periodicals, pamphlets and leaflets, all in electronic form supplied on-line from databases or from facilities provided on the Internet (including web sites); publications, newsletters, magazines, periodicals, pamphlets and leaflets, all in digital or electronic format, or provided by CD-ROM or diskette.*

Class 16: *Paper, paper articles and advertising materials; printed matter, stationery, newspapers, periodicals and cheque books; printed publications, newsletters, magazines, pamphlets, leaflets; plastic cards (other than encoded or magnetic); plastic covered cards bearing printed matter.*

Class 35: *Accounting services; book-keeping; share registration services; payroll preparations; business appraisals, enquiries, investigations, research and business management advice;*

	<p><i>business management consulting; advertising and promotion services and information services relating thereto; business and commercial information services, all provided on-line from a computer database, computer network, global computer network or the Internet; compilation of advertisements for use as web pages on the Internet; business management services; business advisory services; compilation of directories for publishing on global computer networks or the Internet; compilation of advertisements for use on or as web pages or web sites on global computer networks or the Internet; provision of space on web sites for advertising goods and services; business administration services for the processing of sales made on the Internet; business planning; market analysis and research; data collection, storage and processing; personnel (payroll) services; publication of advertising material; advisory, consultancy and information services relating to all of the aforesaid services.</i></p> <p>Class 36: <i>Financial services; banking services; monetary transfer; payment services; automated banking services; home banking; internet banking; savings services; bill payment services; payment and credit services; credit card, debit card, charge card, cash card and bank card services; cash management; safe deposit services; bankers? clearing services; account debiting services; personnel (payroll) services; escrow services; cheque encashment services; credit brokerage; automatic cash dispensing services, automatic teller machine services; insurance services; financing of loans; loans (financial) against security; financial investment services; capital investment services; trustee services; financial management services; brokers and agents (for bonds and other securities); financial consultation services; investment advice; financial guarantees (surety services); financial analysis and providing reports; financial information services; financial research services; financing services (securing funds for others); financial advisory services; services for the provision and purchase of financial and/or credit information; administration of financial affairs; computerised financial services; advice and</i></p>
--	---

	<p><i>enquiries regarding credit; financial services for the provision of credit; acceptance of deposits; discount of bills (notes); domestic remittance, liability guarantee, acceptance of bills, lending securities, acquisition and transfer of monetary claims; trustee services; trusteeship of money; futures contracts; securities, monetary claims, personal property, land, land fixture surface rights and land leasing rights; money exchange, foreign exchange transactions, currency exchange services, travellers cheque services; letter of credit-related business, securities trading, index fixtures, securities options, overseas market securities futures, underwriting securities, selling securities, handling subscriptions and offerings of securities, providing stock market information, life insurance brokerage, life insurance underwriting, agencies for non-life insurance, claim adjustment for non-life insurance, non-life insurance underwriting, insurance actuarial services; mortgage services; information relating to financial, banking, insurance, economic and investment services provided on-line (not-downloadable); advisory, consultancy and information services relating to all of the aforesaid services.</i></p> <p>Class 38: <i>Data transmission and transfer services; telecommunication services provided in relation to the Internet; telecommunication of information (including web pages and web sites), computer programs and any other data; electronic mail services; provision of telecommunications access and links to computer databases, computer networks and the Internet; advisory, consultancy and information services relating to all of the aforesaid services.</i></p> <p>Class 41: <i>Education and entertainment services; electronic publications provided on-line (not downloadable); organisation of sporting events and competitions; arranging and conducting of seminars, congresses, conventions, conferences and exhibitions; education and training related to banking, financial, insurance, economic and investment services; publication of printed matter, periodicals, newsletters, magazines, pamphlets, leaflets and other text relating to banking, financial, insurance, economic and investment on-line (not</i></p>
--	--

	<p><i>downloadable); advisory, consultancy and information services relating to all of the aforesaid services.</i></p> <p>Class 42: <i>Computer rental; design, drawing and commissioned writing, all for the compilation of web pages and web sites on the Internet; information provided on-line from a computer database or from the Internet; advisory, consultancy and information services relating to all of the aforesaid services; design and development of computer hardware and software.</i></p> <p>Class 45: <i>Legal services; company registration services; legal services (business).</i></p>
--	---