

O-072-17

TRADE MARKS ACT 1994

**IN THE MATTER OF TRADE MARK APPLICATION NOS. 2415072, 2448610,
2441871, 2432035A, 2432035B, 2443979A, 2443979B, 2655172, 2655171,
2655163, 3034407 AND 3034390 BY CORAL GROUP TRADING LIMITED**

IN CLASSES 9, 16, 28, 38, 41 AND 43

AND

**THE OPPOSITIONS THERETO UNDER NOS. 95726, 96220, 96259, 96260,
96261, 98611, 97970, 401009, 401011, 400631, 402046 AND 402181
BY G&J HOLDING GMBH**

Background and pleadings

1. These consolidated opposition proceedings have been ongoing for nine years. At various times they have been suspended owing to the ramifications of oppositions by the present applicant to the opponent's earlier requests for protection in the EU of its international trade marks, and consequential appeals. The proceedings were also suspended for a period of time to allow the parties to pursue settlement, which has not been successful.

2. The applications were filed by Gala Group Investments Limited, but have since been assigned to Coral Trading Group Limited ("the applicant). The applicant recently amended its applications by deleting various goods and services. The details for the twelve applications are shown below, insofar as they are now opposed¹:

(i) GALA WIZARD

2415072 Filed 27 February 2006

Class 16: *Tokens; game cards, score cards.*

Class 38: *Telecommunications services relating to interactive television games programmes, entertainment and competitions; broadcasting of games programmes, entertainment and competitions; all the aforesaid relating to games, gaming, gambling, bingo, quizzes, competitions and casino-related entertainment services.*

Class 41: *Operation of casinos, bingo halls and clubs and related leisure, recreational and entertainment services; entertainment services by or relating to games; gambling services; electronic betting, gaming, gambling and lottery services; games and music broadcasts; electronic game, quiz and competition services provided online; organisation, production and management of performances and competitive events; interactive services for television viewers; interactive television games programmes, entertainment and competitions.*

¹ It was confirmed at the hearing that there is no longer any opposition to pens and pencils (Class 16).

(ii) GALA

2448610 Filed 6 March 2007

Class 9: *Pre-recorded DVDs, CDs, tapes, discs and films*².

(iii) 

2441871 (series of 2 marks). Filed 19 December 2006

Class 38: *Broadcasting; fibre optic, cable and satellite, television transmission services; data encryption and data transmission services; subscription data transmission services; subscription television broadcasting services; interactive broadcasting and communications services; computer aided transmission of messages, text, sound, images, and radio and television programmes; broadcasting and transmission of interactive television, interactive entertainment and interactive games and competitions; receiving and exchange of information, messages, text, sound, images; electronic mail services; teletext services; interactive video text services; services relating to the rental of digital, cable or satellite, video and audio-visual image transmitters for use in the transmission of television programming and informational data; providing access to gambling and gaming websites on the Internet.*

Class 41: *Entertainment services.*

(iv) GALA WIZ

2432035A Filed 8 September 2006

Class 38: *Interactive television services; telecommunication services relating to interactive television games programmes, entertainment and competitions; broadcasting of games programmes, entertainment and competitions; all the*

² The opponent also opposed 'interactive television', but this does not appear in the applicant's specification as a standalone term.

aforesaid relating to games, gaming, gambling, bingo, quizzes, competitions and casino-related entertainment services.

Class 41: *Interactive services for television viewers; interactive television games programmes, entertainment and competitions.*



(v)

2432035B (a series of 2 marks). Filing date 8 September 2006.

Class 38: *Interactive television services; telecommunication services relating to interactive television games programmes, entertainment and competitions; broadcasting of games programmes, entertainment and competitions; all the aforesaid relating to games, gaming, gambling, bingo, quizzes, competitions and casino-related entertainment services.*

Class 41: *Interactive services for television viewers; interactive television games programmes, entertainment and competitions.*

(vi) GALA

2443979A Filed 18 January 2007

Class 38: *Broadcasting; fibre optic, cable and satellite, television transmission services; subscription television broadcasting services; interactive broadcasting; broadcasting and transmission of interactive television, interactive entertainment and interactive competitions; electronic mail services; teletext services; inter-active video text services; services relating to the rental of digital, cable or satellite, video and*

audio-visual image transmitters for use in the transmission of television programming and informational data; operation of a website or TV channel allowing a user to bet, gamble and play games, including bingo; providing access to gambling and gaming websites on the Internet.

Class 41: Leisure facilities; gymnasium, health club, social club, amusement arcade and squash court services; snooker and pool hall services; dog racing and horse racing stadia services; providing venues, stadia, racetracks and other facilities for sports events, races and competitions; betting, gaming, games, gambling, book-making and casino services; club and nightclub facilities; bingo hall services, bingo club services; electronic game and/or gaming services; organisation and presentation of games, quizzes and competitions; interactive entertainment and interactive competition services; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice in relation to all the aforesaid.

(vii) GALA TV

2443979B Filed 18 January 2007

Class 38: Broadcasting; fibre optic, cable and satellite, television transmission services; subscription television broadcasting services; interactive broadcasting; broadcasting and transmission of interactive television, interactive entertainment and interactive competitions; electronic mail services; teletext services; inter-active video text services; services relating to the rental of digital, cable or satellite, video and audio-visual image transmitters for use in the transmission of television programming and informational data; operation of a website or TV channel allowing a user to bet, gamble and play games, including bingo; providing access to gambling and gaming websites on the Internet.

Class 41: Entertainment services and leisure facilities; gymnasium, health club, social club, amusement arcade and squash court services; snooker and pool hall services; dog racing and horse racing stadia services; providing venues, stadia, racetracks and other facilities for sports events, races and competitions; betting,

gaming, games, gambling, book-making and casino services; club and nightclub facilities; bingo hall services, bingo club services; electronic game and/or gaming services; organisation and presentation of games, quizzes and competitions; interactive entertainment and interactive competition services; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice in relation to all the aforesaid.

(viii) GALA BINGO

2655172 Filed 6 March 2013

Class 09: Downloadable games, pre-recorded DVDs, CDs, videos, tapes, discs, films; magnetic data carriers, recording discs; apparatus for recording, transmission or reproduction of sound or images; television apparatus and instruments; telecommunications equipment; electronic devices for receiving television and global communication network transmissions and transmitting them to a television or other display device and computer programs for use therewith; computer software, including downloadable computer software; computer software for online payment and transaction processing; computer software for use in playing poker; game and/or gaming software, including interactive gaming; betting terminals; mechanisms for coin-operated apparatus; all the aforesaid goods relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

Class 16: Printed scorecards; coupons and vouchers; score cards; all relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

Class 28: Printed game cards; electronic games; interactive electronic games; apparatus for games adapted for use with television receivers.

Class 38: Broadcasting; fibre optic, cable and satellite, television transmission services; subscription television broadcasting services; interactive broadcasting; broadcasting and transmission of interactive television, interactive entertainment and

interactive competitions; electronic mail services; teletext services; inter-active video text services; rental of digital, cable or satellite, video and audio-visual image transmitters for use in the transmission of television programming; providing access to a website or transmission of a TV channel allowing a user to bet, gamble and play games, including bingo (Interactive TV); providing access to gambling and gaming websites on the internet; providing access to websites on the internet to play games; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

Class 41: Entertainment services and leisure facilities; organisation and presentation of gambling or gaming events, poker games, betting, playing games, bingo games; book-making and casino services; club and nightclub facilities; electronic game and/or gaming services, interactive games, interactive entertainment and interactive competition services; education, teaching and training relating to playing games, gambling, gaming, poker, bingo, betting, book making; gaming, or entertainment provided online via the internet, by telephone, by radio or via a mobile communications network; entertainment services by television in the nature of allowing a user (viewer) to bet, gamble and play games, including poker and bingo; entertainment services namely, the provision of a website allowing a user to bet, gamble and play games, including poker and bingo; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

(ix) GALA CASINO

2655171 Filed 6 March 2013

Class 9: Downloadable games, pre-recorded DVDs, CDs, videos, tapes, discs, films; magnetic data carriers, recording discs; apparatus for recording, transmission or reproduction of sound or images; television apparatus and instruments;

telecommunications equipment; electronic devices for receiving television and global communication network transmissions and transmitting them to a television or other display device and computer programs for use therewith; computer software, including downloadable computer software; computer software for online payment and transaction processing; computer software for use in playing poker; game and/or gaming software, including interactive gaming; betting terminals; mechanisms for coin-operated apparatus; all the aforesaid goods relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

Class 16: Printed scorecards; coupons and vouchers; score cards; all relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

Class 28: Printed game cards; electronic games; interactive electronic games; apparatus for games adapted for use with television receivers.

Class 38: Broadcasting; fibre optic, cable and satellite, television transmission services; subscription data transmission services; subscription television broadcasting services; broadcasting and transmission of interactive television, interactive entertainment and interactive competitions; electronic mail services; teletext services; inter-active video text services; rental of digital, cable or satellite, video and audio-visual image transmitters for use in the transmission of television programming; providing access to a website or transmission of a TV channel allowing a user to bet, gamble and play games, including bingo (Interactive TV); providing access to gambling and gaming websites on the internet; providing access to websites on the internet to play games; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

Class 41: Entertainment services and leisure facilities; organisation and presentation of gambling or gaming events, poker games, betting, playing games,

bingo games; book-making and casino services; club and nightclub facilities; electronic game and/or gaming services, interactive games, interactive entertainment and interactive competition services; education, teaching and training relating to playing games, gambling, gaming, poker, bingo, betting, book making; gaming, or entertainment provided online via the internet, by telephone, by radio or via a mobile communications network; entertainment services by television in the nature of allowing a user (viewer) to bet, gamble and play games, including poker and bingo; entertainment services namely, the provision of a website allowing a user to bet, gamble and play games, including poker and bingo; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

(x) GALA

2655163 Filed 6 March 2013

Class 9: Electronic games, downloadable games, pre-recorded DVDs, CDs, videos, tapes, discs, films; magnetic data carriers, recording discs; apparatus for recording, transmission or reproduction of sound or images; apparatus for games adapted for use with television receivers; television apparatus and instruments; telecommunications equipment; electronic devices for receiving television and global communication network transmissions and transmitting them to a television or other display device and computer programs for use therewith; computer software, including downloadable computer software; computer software for online payment and transaction processing; computer software for use in playing poker; game and/or gaming software, including interactive gaming; interactive electronic games; betting terminals; mechanisms for coin-operated apparatus; all the aforesaid goods relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

Class 16: *Printed scorecards; coupons and vouchers; printed game cards; score cards; all relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.*

Class 38: *Broadcasting; fibre optic, cable and satellite, television transmission services; data transmission services, including transmission of data featuring encryption and decryption; subscription data transmission services; subscription television broadcasting services; interactive broadcasting and communications services; computer aided transmission of radio and television programmes; broadcasting and transmission of interactive television, interactive entertainment and interactive competitions; receiving and exchange of information, messages, text, sound, images and data; electronic mail services; teletext services; inter-active video text services; rental of digital, cable or satellite, video and audio-visual image transmitters for use in the transmission of television programming; operation of a website or TV channel allowing a user to bet, gamble and play games, including bingo; providing access to gambling and gaming websites on the internet; providing access to websites on the internet to play games; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.*

Class 41: *Entertainment services and leisure facilities; organisation and presentation of gambling or gaming events, poker games, betting, playing games, bingo games; book-making and casino services; club and nightclub facilities; electronic game and/or gaming services, interactive games, interactive entertainment and interactive competition services; education, teaching and training relating to playing games, gambling, gaming, poker, bingo, betting, book making; gaming, or entertainment provided online via the internet, by telephone, by radio or via a mobile communications network; operation of a TV channel allowing a user to bet, gamble and play games, including poker and bingo; entertainment services namely, the provision of a website allowing a user to bet, gamble and play games, including poker and bingo; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice*

in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

(xi)



3034407 (a series of 2 marks) Filed 11 December 2013

Class 9: Downloadable games, pre-recorded DVDs, CDs, videos, tapes, discs, films; magnetic data carriers, recording discs; apparatus for recording, transmission or reproduction of sound or images; apparatus for games adapted for use with television receivers; television apparatus and instruments; telecommunications equipment; electronic devices for receiving television and global communication network transmissions and transmitting them to a television or other display device and computer programs for use therewith; computer software, including downloadable computer software; computer software for online payment and transaction processing; computer software for use in playing poker; game and/or gaming software, including interactive gaming; betting terminals; mechanisms for coin-operated apparatus; all the aforesaid goods relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, pool betting, tote betting, playing bingo, playing games, book-making or casino services.

Class 16: Printed scorecards; coupons and vouchers; score cards; all relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

Class 28: *Printed game cards; electronic games, interactive electronic games; apparatus for games adapted for use with television receivers.*

Class 38: *Broadcasting; fibre optic, cable and satellite, television transmission services; subscription television broadcasting services; interactive broadcasting; broadcasting and transmission of interactive television, interactive entertainment and interactive competitions; electronic mail services; teletext services; inter-active video text services; rental of digital, cable or satellite, video and audio-visual image transmitters for use in the transmission of television programming; operation of a website or TV channel allowing a user to bet, gamble and play games, including bingo; providing access to gambling and gaming websites on the internet; providing access to websites on the internet to play games; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, tote betting, pool betting, playing bingo, playing games, book-making or casino services.*

Class 41: *Entertainment services and leisure facilities; organisation and presentation of gambling or gaming events, poker games, betting, pool betting, tote betting, playing games, bingo games; gambling or gaming services, betting, pool betting, tote betting, book-making and casino services; club and nightclub facilities; electronic game and/or gaming services, interactive games, interactive entertainment and interactive competition services; education, teaching and training relating to playing games, gambling, gaming, poker, bingo, betting, book making; gaming, or entertainment provided online via the internet, by telephone, by radio or via a mobile communications network; operation of a TV channel allowing a user to bet, gamble and play games, including poker and bingo; entertainment services namely, the provision of a website allowing a user to bet, gamble and play games, including poker and bingo; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, tote betting, pool betting, playing bingo, playing games, book-making or casino services.*

(xii)



3034390 (a series of 2 marks) Filed 11 December 2013

Class 9: *Downloadable games, pre-recorded DVDs, CDs, videos, tapes, discs, films; magnetic data carriers, recording discs; apparatus for recording, transmission or reproduction of sound or images; television apparatus and instruments; telecommunications equipment; electronic devices for receiving television and global communication network transmissions and transmitting them to a television or other display device and computer programs for use therewith; computer software, including downloadable computer software; computer software for online payment and transaction processing; computer software for use in playing poker; game and/or gaming software, including interactive gaming; betting terminals; mechanisms for coin-operated apparatus; all the aforesaid goods relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, pool betting, tote betting, playing bingo, playing games, book-making or casino services.*

Class 16: *Printed scorecards; coupons and vouchers; score cards; all relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.*

Class 28: *Printed game cards; electronic games, interactive electronic games; apparatus for games adapted for use with television receivers.*

Class 38: *Broadcasting; fibre optic, cable and satellite, television transmission services; subscription television broadcasting services; interactive broadcasting;*

broadcasting and transmission of interactive television, interactive entertainment and interactive competitions; electronic mail services; teletext services; inter-active video text services; rental of digital, cable or satellite, video and audio-visual image transmitters for use in the transmission of television programming; operation of a website or TV channel allowing a user to bet, gamble and play games, including bingo; providing access to gambling and gaming websites on the internet; providing access to websites on the internet to play games; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, tote betting, pool betting, playing bingo, playing games, book-making or casino services.

Class 41: Entertainment services and leisure facilities; organisation and presentation of gambling or gaming events, poker games, betting, pool betting, tote betting, playing games, bingo games; gambling or gaming services, betting, pool betting, tote betting, book-making and casino services; club and nightclub facilities; electronic game and/or gaming services, interactive games, interactive entertainment and interactive competition services; education, teaching and training relating to playing games, gambling, gaming, poker, bingo, betting, book making; gaming, or entertainment provided online via the internet, by telephone, by radio or via a mobile communications network; operation of a TV channel allowing a user to bet, gamble and play games, including poker and bingo; entertainment services namely, the provision of a website allowing a user to bet, gamble and play games, including poker and bingo; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, tote betting, pool betting, playing bingo, playing games, book-making or casino services.

3. G&J Holding GmbH (“the opponent”) opposes the applications under section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). The opponent relies upon two earlier international trade marks for which protection has been requested in the EU. IR 906751 is for the mark GALA INSIDE. Its designation date is 23 June 2006, and it claims a German priority date of 23 December 2005. After having been opposed by the present applicant, the IR was protected on 13 July 2011 for the following (reduced) list of goods and services:

Class 16: *Printed matter; bookbinding material.*

Class 35: *Publishing and publication of publicity texts; dissemination of advertising matter.*

Class 38: *Content provider services, namely providing access to platforms or information on the Internet.*

Class 41: *Instruction; training; services of publishers (except printing), publication and issue of printed matter in print and electronic form with editorial content and partly advertising content offline and online in the field of publishing, included in this class.*

4. IR 906746, for the mark GALA FRIENDS, is opposed by the present applicant (to the same extent as it opposed 906751. The IR’s designation, priority and registration dates are the same as for IR 906751. Protection is requested for the following goods and services:

Class 16: *Printed matter; bookbinding material.*

Class 35: *Publishing and publication of publicity texts; dissemination of advertising matter.*

Class 38: *Services in the field of telecommunications; sending of information to third parties on the Internet; distribution of information on wireless or cable networks;*

content provider services, namely providing access to platforms or information on the Internet; transmission of radio and (cable) television programs.

Class 41: Instruction; training; entertainment, particularly radio entertainment and television entertainment; services of publishers (except printing), publication and issue of printed matter in print and electronic form with editorial content and partly advertising content offline and online in the field of publishing, included in this class; sports and cultural activities.

5. The opponent claims that there is a likelihood of confusion between the applications and its earlier IRs. The applicant denies the claim and the validity of the earlier rights (although one is now protected, the other remains opposed).

6. Both sides are professionally represented. Neither side filed evidence. The applicant filed written submissions during the evidence rounds. The matter came to be heard on 25 July 2016 by video conference. Ms Fiona Clarke, of Counsel, represented the opponent, instructed by White & Case LLP. Mr Thomas St Quintin, of Counsel, represented the applicant, instructed by Freeths LLP.

Decision

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

“(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.”

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

The principles

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

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

(e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;

(f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

(g) a lesser degree of similarity between the goods or services may be offset by a great degree of similarity between the marks, and vice versa;

(h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has been made of it;

(i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;

(j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense; and

(k) if the association between the marks creates a risk that the public might believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

Comparison of goods and services

9. In comparing the respective specifications, all relevant factors should be considered, as per *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc.* where the Court of Justice of the European Union (“CJEU”) stated, at paragraph 23 of its judgment:

“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.”

10. ‘Complementary’ was defined by the General Court (“GC”) in *Boston Scientific Ltd v OHIM* Case T-325/06:

“82 It is true that 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 those goods lies with the same undertaking...”

11. Additionally, the criteria identified in *British Sugar Plc v James Robertson & Sons Limited* (“Treat”) [1996] R.P.C. 281 for assessing similarity between goods and services also includes an assessment of the channels of trade of the respective goods or services.

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

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

13. In *YouView TV Ltd v Total Ltd* [2012] EWHC 3158 (Ch) at [12] Floyd J stated:

“... Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise: see the observations of the CJEU in Case C-307/10 *The Chartered Institute of Patent Attorneys (Trademarks) (IP TRANSLATOR)* [2012] ETMR 42 at [47]-[49]. Nevertheless the principle should not be taken too far. Treat was decided the way it was because the ordinary and natural, or core, meaning of 'dessert

sauce' did not include jam, or because the ordinary and natural description of jam was not 'a dessert sauce'. Each involved a straining of the relevant language, which is incorrect. Where words or phrases in their ordinary and natural meaning are apt to cover the category of goods in question, there is equally no justification for straining the language unnaturally so as to produce a narrow meaning which does not cover the goods in question."

14. In *Gérard Meric v OHIM*, Case T-33/05, the GC stated that:

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

15. The earlier marks are not subject to proof of use, which means that they must be considered across the notional breadth of the goods and services relied upon³.

16. I will consider firstly the applicant's goods and services against the IR which is protected in the EU: IR 906751, GALA INSIDE.

17. IR 906751 is protected for:

Class 16: *Printed matter; bookbinding material.*

Class 35: *Publishing and publication of publicity texts; dissemination of advertising matter.*

Class 38: *Content provider services, namely providing access to platforms or information on the Internet.*

³ *Roger Maier and Another v ASOS* [2015] EWCA Civ 220, paragraphs 78 and 84.

Class 41: *Instruction; training; services of publishers (except printing), publication and issue of printed matter in print and electronic form with editorial content and partly advertising content offline and online in the field of publishing, included in this class.*

18. In my comparisons, I have restricted the comparisons to those which were pleaded by the opponent in each of notices of opposition and statements of grounds (no requests to amend the pleadings were subsequently made). I will begin with the applications which cover class 9. These are:

2448610 GALA: *Pre-recorded DVDs, CDs, tapes, discs and films.*

19. The pleadings against this mark refer to electronic publications which are no longer in the class 9 specification for this application, and radio and television entertainment, which are no longer part of the IR's protected services. These goods are not similar to the goods and services of the IR.

2655172 GALA BINGO, 2655171 GALA CASINO, 2655163 GALA, 3034407 and 3034390 (the two composite Gala Bingo marks):

Downloadable games, pre-recorded DVDs, CDs, videos, tapes, discs, films; magnetic data carriers, recording discs; apparatus for recording, transmission or reproduction of sound or images; television apparatus and instruments; telecommunications equipment; electronic devices for receiving television and global communication network transmissions and transmitting them to a television or other display device and computer programs for use therewith; computer software, including downloadable computer software; computer software for online payment and transaction processing; computer software for use in playing poker; game and/or gaming software, including interactive gaming; betting terminals; mechanisms for coin-operated apparatus; all the aforesaid goods relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

20. The opponent opposes all of the goods in class 9. On the face of it, *pre-recorded CD's* and *tapes* will include audio-books, which are similar to books (covered by the earlier mark's printed matter). However, the applicant's specification is limited to goods in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services. These are unlikely subjects for audio books, and so these goods are not, in fact, similar. Bingo cards are proper to class 28, as are playing cards and game cards, so there is no apparent similarity between any of the applicant's class 9 goods (i.e. the downloadable equivalents) and the opponent's printed matter.

21. Applications 2655172, 2655171, 2655163, 3034407 and 3034390 cover telecommunications equipment. The opponent has cover in class 38 for *content provider services*, which has been limited (by virtue of 'namely') to such services which provide access to platforms or information on the internet. It is difficult, in the absence of submissions, to get a feel for where, if anywhere, similarity lies. The only submissions relating to the opponent's class 38 services are that the services are similar to pre-recorded DVDs, CDs, videos, tapes, discs and films because the goods contain content; that they are for the same purpose, and may be complementary or in competition. There is no explanation as to why. I decline to find any similarity with any of the applicant's class 9 goods and the goods and services of the earlier mark.

22. The applications in class 16 are:

2415072 GALA WIZARD: *Tokens; game cards, score cards.*

2655172 GALA BINGO, 2655171 GALA CASINO, 2655163 GALA, 3034407 and 3034390 (the two composite Gala Bingo marks): *Printed scorecards; coupons and vouchers; score cards; all relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.*

21. These goods appear to be proper to class 28. The applications are UK national applications and, so far as UK marks are concerned, the registrar's classification decision is final (section 34(2) of the Act). Therefore, I will take the goods description, accepted by the registrar in Class 16, as all being covered by the opponent's wider term '*printed matter*', which means the goods are identical.

22. The applications in class 28 are:

2655172 GALA BINGO, 2655171 GALA CASINO, 3034407 and 3034390 (the two composite Gala Bingo marks): *Printed game cards; electronic games; interactive electronic games; apparatus for games adapted for use with television receivers.*

23. The pleadings in the statutory notice of opposition for these particular applications indicate that all these goods are opposed. The IR covers printed matter, but *printed game cards* are in class 28, as are, for example, bingo cards. There are no submissions about what type of printed matter in class 16 may be similar to game cards in class 28. Simply that the goods are printed does not appear to me to make them any more similar than, for example, tea towels and jeans, which are both made from fabric. None of the other goods in the applicant's specifications appear to be similar to the goods and services of the IR. The applicant's class 28 goods are not similar to any of the goods and services of the IR.

24. The opponent's pleadings are not the same against all the applications in Class 38.

2415072 GALA WIZARD: *Telecommunications services relating to interactive television games programmes, entertainment and competitions; broadcasting of games programmes, entertainment and competitions; all the aforesaid relating to games, gaming, gambling, bingo, quizzes, competitions and casino-related entertainment services.*

25. The claim is that all of the applicant's class 38 services are identical to all of the IR's services in class 38. There are no other claims made. The class 38 services of

the IR are *content provider services, namely providing access to platforms or information on the Internet*. There are no submissions to assist me in comparing the IR's services and *telecommunications services relating to interactive television games programmes, entertainment and competitions*; i.e. how each parties' services work. The other class 38 services of the application (broadcasting) do not appear to be similar. Providing access to a platform or information on the Internet appears to be fundamentally different to broadcasting. I find no similarity between any of the services.

26. 2441871 GALA TV (stylised): *Broadcasting; fibre optic, cable and satellite, television transmission services; data encryption and data transmission services; subscription data transmission services; subscription television broadcasting services; interactive broadcasting and communications services; computer aided transmission of messages, text, sound, images, and radio and television programmes; broadcasting and transmission of interactive television, interactive entertainment and interactive games and competitions; receiving and exchange of information, messages, text, sound, images; electronic mail services; teletext services; inter-active video text services; services relating to the rental of digital, cable or satellite, video and audio-visual image transmitters for use in the transmission of television programming and informational data; providing access to gambling and gaming websites on the Internet.*

27. The pleading against this application is:

"8. Broadcasting, communications and telecommunications; fibre optic, cable and satellite, television services" are similar services to those of *"services in the field of telecommunications"* and identical to *"transmission of radio (and cable) television programs"* in Class 38 of the Opponent's Specification.

...

10. The services specified in Class 38 of the Applicant's Specification are all either forms of telecommunication or the sending of information by electronic

means. Such services are either identical to “*telecommunications*” or similar to the other items specified in Class 38 of the Opponent’s Registrations”.

28. *Services in the field of telecommunications*”, “*transmission of radio (and cable) television programs*” and “*telecommunications*” do not form part of the specification of services in Class 38 of the IR. The comparison must be with the protected services, which are *content provider services, namely providing access to platforms or information on the Internet* (bearing in mind the limiting effect of ‘namely’). The claim is that these are similar to the applicant’s class 38 specification. My comments above about broadcasting apply here and, by analogy, transmission. Providing access to platforms or information on the Internet appears to be highly similar to *interactive communications services; and providing access to gambling and gaming websites on the Internet*. It has not been explained where similarity lies with the other services, and so I find no similarity between the other class 38 services or any of the other goods and services protected by the IR.

29. 2432035A&B GALA WIZ: *Interactive television services; telecommunication services relating to interactive television games programmes, entertainment and competitions; broadcasting of games programmes, entertainment and competitions; all the aforesaid relating to games, gaming, gambling, bingo, quizzes, competitions and casino-related entertainment services.*

30. The pleadings against these applications are as follows:

“8. *Telecommunications services*” are identical services to those of “*services in the field of telecommunications*” in Class 38 of the Opponent’s specification.

...

10. The services specified in Class 38 of the Applicant’s Specification are all either forms of telecommunication or the sending of information by electronic means. Such services are either identical to “*telecommunications*” or similar to the other items specified in Class 38 of the Opponent’s Registrations.”

31. Neither party's specification any longer includes *telecommunications* or *services in the field of telecommunications*. The services do not appear to be similar.

32. 2443979A GALA and 2443979B GALA TV: *Broadcasting; fibre optic, cable and satellite, television transmission services; subscription television broadcasting services; interactive broadcasting; broadcasting and transmission of interactive television, interactive entertainment and interactive competitions; electronic mail services; teletext services; inter-active video text services; services relating to the rental of digital, cable or satellite, video and audio-visual image transmitters for use in the transmission of television programming and informational data; operation of a website or TV channel allowing a user to bet, gamble and play games, including bingo; providing access to gambling and gaming websites on the Internet.*

33. The pleadings against this application are as follows:

“6. The services specified in class 38 of the Applicant's Specification relate either to telecommunications, transmission and broadcast of television/radio, distribution of information and data content over the Internet, or provide access to information remotely. As such, they are all identical, or at least extremely similar, to the services specified in Class 38 of the Opponent's Specification.”

34. The applicant's *operation of a website allowing a user to bet, gamble and play games, including bingo; and providing access to gambling and gaming websites on the Internet* appear to be either identical or highly similar to the opponent's services as they relate to providing access to an Internet platform. It has not been explained why the other services are similar and so I decline to find that there is any similarity.

35. 2655172 GALA BINGO, 2655171 GALA CASINO and 2655163 GALA: *Broadcasting; fibre optic, cable and satellite, television transmission services; subscription television broadcasting services; interactive broadcasting; broadcasting and transmission of interactive television, interactive entertainment and interactive*

competitions; electronic mail services; teletext services; inter-active video text services; rental of digital, cable or satellite, video and audio-visual image transmitters for use in the transmission of television programming; providing access to a website or transmission of a TV channel allowing a user to bet, gamble and play games, including bingo (Interactive TV); providing access to gambling and gaming websites on the internet; providing access to websites on the internet to play games; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

36. The claim is that all the services are either identical or similar. On the basis of my findings above, there is identity between the opponent's services and the applicant's *providing access to a website allowing a user to bet, gamble and play games, including bingo; providing access to gambling and gaming websites on the internet; providing access to websites on the internet to play games; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.* It has not been explained why the other services are similar and so I decline to find that there is any similarity.

37. 3034407 and 3034390 GALA BINGO (stylised): *Broadcasting; fibre optic, cable and satellite, television transmission services; subscription television broadcasting services; interactive broadcasting; broadcasting and transmission of interactive television, interactive entertainment and interactive competitions; electronic mail services; teletext services; inter-active video text services; rental of digital, cable or satellite, video and audio-visual image transmitters for use in the transmission of television programming; operation of a website or TV channel allowing a user to bet, gamble and play games, including bingo; providing access to gambling and gaming websites on the internet; providing access to websites on the internet to play games; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling,*

gaming, poker gaming, betting, tote betting, pool betting, playing bingo, playing games, book-making or casino services.

38. The claim is that all the services are either identical or similar. On the basis of my findings above, there is identity between the opponent's services and the applicant's *operation of a website allowing a user to bet, gamble and play games, including bingo; providing access to gambling and gaming websites on the internet; providing access to websites on the internet to play games; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, tote betting, pool betting, playing bingo, playing games, book-making or casino services.* It has not been explained why the other services are similar and so I decline to find that there is any similarity.

39. The opponent contends that the applications which cover transmission of data, text and images are similar to the opponent's class 41 electronic publishing services. Transmission services are a type of telecommunication service. These are not similar to publishing services, either in nature, purpose, channels of trade, method of use. They are not in competition and I cannot see any complementarity within the meaning given in *Boston*.

40. The opponent's pleadings are not the same against all the applications in Class 41.

2415072 GALA WIZARD: *Operation of casinos, bingo halls and clubs and related leisure, recreational and entertainment services; entertainment services by or relating to games; gambling services; electronic betting, gaming, gambling and lottery services; games and music broadcasts; electronic game, quiz and competition services provided online; organisation, production and management of performances and competitive events; interactive services for television viewers; interactive television games programmes, entertainment and competitions.*

41. The pleadings against this application are as follows:

“8. The services specified in Class 41 of the Opponent’s Specification are identical to those specified in Class 41 of the Applicant’s Specification. All such services are either entertainment services or relate to interactive services for television viewers. In the alternative, the services are at least very similar.

9. “*Electronic publications*” in Class 9 of the Applicant’s Specification are similar goods to ... “*publishing of publicity texts*” in Class 35 and “*publication and issue of printed matter in print and electronic form*” in Class 41 of the Opponent’s Specification.”

42. *Electronic publications* no longer forms part of the application. The class 41 services of the IR are *Instruction; training; services of publishers (except printing), publication and issue of printed matter in print and electronic form with editorial content and partly advertising content offline and online in the field of publishing, included in this class.*

43. The services in Class 41 of the IR instruction, training and publishing services. Bearing in mind their core meanings, they are not similar to the applicant’s services, which are various types of entertainment services.

44. 2441871 GALA TV (stylised): *Entertainment services.*

The pleadings against this application are as follows:

“7. *Electronic publications*” in the Applicant’s Specification are similar goods to “*printed matter*” in Class 16 of the Opponent’s Specification and also a similar activity to “*publication and issue of printed matter in print and electronic form*” in Class 41 of the Opponent’s Specification.

...

9. “*Entertainment services*” in the Applicant’s Specification are identical services to the services of “*entertainment, particularly radio entertainment and television entertainment*” in Class 41 of the Opponent’s Specification.”

45. *Electronic publications* no longer form part of the application, and “*entertainment, particularly radio entertainment and television entertainment*” no longer forms part of the IR’s specification. The services in Class 41 of the IR are restricted to instruction, training and publishing services. Bearing in mind their core meanings, they are not similar to the applicant’s services, which are entertainment services.

46. 2432035A&B GALA WIZ: *Interactive services for television viewers; interactive television games programmes, entertainment and competitions.*

47. The pleadings against this application are:

“7. “*Electronic publications*” in the Applicant’s Specification are similar goods to “*printed matter*” in Class 16 of the Opponent’s Specification and also a similar activity to “*publication and issue of printed matter in print and electronic form*” in Class 41 of the Opponent’s Specification.

...

9. “*Interactive services for television viewers; interactive television games programmes, entertainment and competitions*” in the Applicant’s Specification are similar services to the services of “*entertainment, particularly radio entertainment and television entertainment*” in Class 41 of the Opponent’s Specification.”

48. *Electronic publications* no longer form part of the application, and “*entertainment, particularly radio entertainment and television entertainment*” no longer forms part of the IR’s specification. There are no other pleadings as regards similarity between the class 41 services of the application and the goods and

services of the IR. The services in Class 41 of the IR are restricted to instruction, training and publishing services. Bearing in mind their core meanings, they are not similar to the applicant's services, which are various types of entertainment services.

49. 2443979A&B GALA and GALA TV: [Entertainment services and⁴] *Leisure facilities; gymnasium, health club, social club, amusement arcade and squash court services; snooker and pool hall services; dog racing and horse racing stadia services; providing venues, stadia, racetracks and other facilities for sports events, races and competitions; betting, gaming, games, gambling, book-making and casino services; club and nightclub facilities; bingo hall services, bingo club services; electronic game and/or gaming services; organisation and presentation of games, quizzes and competitions; interactive entertainment and interactive competition services; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice in relation to all the aforesaid.*

50. The pleadings against this application are:

“7. The Class 41 services in the Applicant's Specification are identical to “*entertainment...; sports and cultural services*” in the Opponent's Specification.”

51. *Entertainment...; sports and cultural services* no longer form part of the opponent's specification. There are no other pleadings as regards similarity between the class 41 services of the application and the goods and services of the IR. Accordingly, I find there to be no similarity between the class 41 services of the application and the goods and services of the IR.

52. 2655172 GALA BINGO, 2655171 GALA CASINO, 2655163 GALA, 3034407 and 3034390 Gala Bingo (stylised): *Entertainment services and leisure facilities; organisation and presentation of gambling or gaming events, poker games, betting, playing games, bingo games; book-making and casino services; club and nightclub*

⁴ In the case of 2443979B GALA TV.

facilities; electronic game and/or gaming services, interactive games, interactive entertainment and interactive competition services; education, teaching and training relating to playing games, gambling, gaming, poker, bingo, betting, book making; gaming, or entertainment provided online via the internet, by telephone, by radio or via a mobile communications network; entertainment services by television in the nature of allowing a user (viewer) to bet, gamble and play games, including poker and bingo; entertainment services namely, the provision of a website allowing a user to bet, gamble and play games, including poker and bingo; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

53. The claim is that all the services are either identical or similar. The services in Class 41 of the IR are restricted to instruction, training and publishing services. Bearing in mind their core meanings, they are not similar to the applicant's services, with the exception of *education, teaching and training relating to playing games, gambling, gaming, poker, bingo, betting, book making; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.* On the Méric principle, these are covered by the opponent's terms "instruction" and "training" and so are identical.

54. The specification of the other earlier mark, IR 906746 GALA FRIENDS, is much wider than that for IR 906751. The specification of IR 906751 was restricted after it was opposed by the present applicant. Mr St Quintin submitted that the applicant expects that it will be similarly successful in its opposition against IR 906746 and that the specifications of IR 906746 will be similarly restricted. This decision is provisional as IR 906746 is not yet registered. In all the circumstances, I intend to proceed with the rest of this provisional decision on the basis that IR 906746 will, eventually, be restricted to the same goods and services as IR 906751. When the

proceedings against IR 906746 are resolved, I will re-visit the comparison of goods and services, if they are not restricted to the same goods and services as IR 906751.

Average consumer

55. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purpose of assessing the likelihood of confusion, it must be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods or services in question: *Lloyd Schuhfabrik Meyer*, Case C-342/97. In *Comic Enterprises Ltd v Twentieth Century Fox Film Corporation* [2016] EWCA Civ 41, Kitchin LJ considered the characteristics of the average consumer. Although this was an infringement case, the principles apply equally under section 5(2):

“34 This court considered the characteristics of the average consumer at some length in *Interflora Inc v Marks and Spencer plc* [2015] EWCA Civ 1403, [2014] FSR 10 from [107] to [130]. The following general points emerge further to those set out above:

i) the average consumer is a hypothetical person or, as he has been called, a legal construct; he is a person who has been created to strike the right balance between the various competing interests including, on the one hand, the need to protect consumers and, on the other hand, the promotion of free trade in an openly competitive market, and also to provide a standard, defined in EU law, which national courts may then apply;

ii) the average consumer is not a statistical test; the national court must exercise its own judgment in accordance with the principle of proportionality and the principles explained by the Court of Justice to determine the perceptions of the average consumer in any given case in the light of all the circumstances; the test provides the court with a

perspective from which to assess the particular question it has to decide;

iii) in a case involving ordinary goods and services, the court may be able to put itself in the position of the average consumer without requiring evidence from consumers, still less expert evidence or a consumer survey. In such a case, the judge can make up his or her own mind about the particular issue he or she has to decide in the absence of evidence and using his or her own common sense and experience of the world. A judge may nevertheless decide that it is necessary to have recourse to an expert's opinion or a survey for the purpose of assisting the court to come to a conclusion as to whether there is a likelihood of deception;

iv) the issue of a trade mark's distinctiveness is intimately tied to the scope of the protection to which it is entitled. So, in assessing an allegation of infringement under Article 5(1)(b) of the Directive arising from the use of a similar sign, the court must take into account the distinctiveness of the trade mark, and there will be a greater likelihood of confusion where the trade mark has a highly distinctive character either per se or as a result of the use which has been made of it. It follows that the court must necessarily have regard to the impact of the accused sign on the proportion of consumers to whom the trade mark is particularly distinctive;

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

56. The opponent's goods and services notionally include both consumer and business goods and services, whilst the relevant goods and services of the applications (i.e. those which are similar/identical to the opponent) appear to be

aimed at the consumer. There do not appear to be any goods or services which are more aural purchases than visual. A visual purchasing process is the norm (although the potential for an aural purchasing process is not ignored). In the main, a normal degree of attention will be paid to the purchase of the goods and services.

Comparison of marks

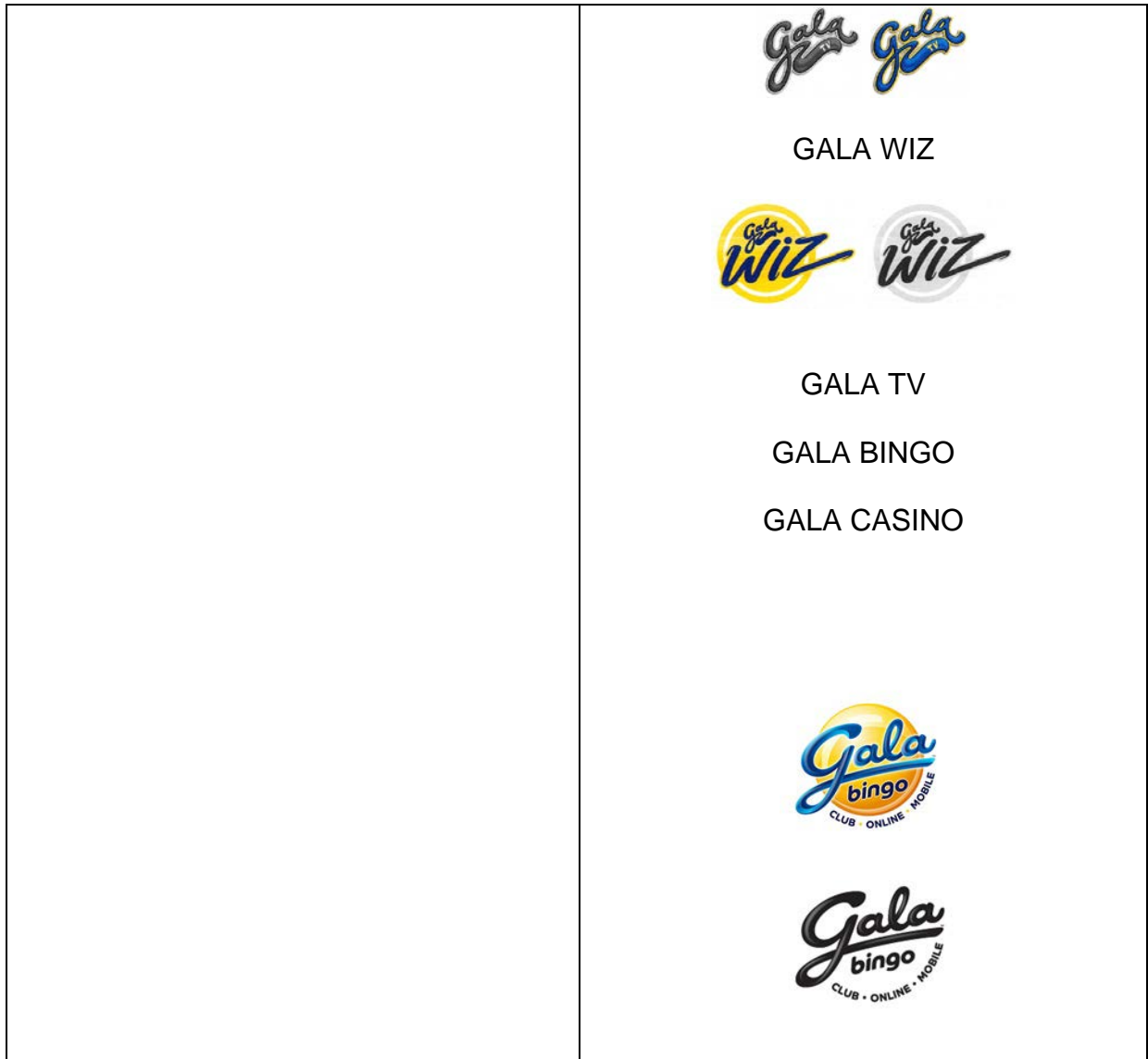
57. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The Court of Justice of the European Union stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

“.....it is necessary to ascertain, in each individual case, the overall impression made on the target public by the sign for which registration is sought, by means of, inter alia, an analysis of the components of a sign and of their relative weight in the perception of the target public, and then, in the light of that overall impression and all factors relevant to the circumstances of the case, to assess the likelihood of confusion.”

58. It is necessary to take into account the distinctive and dominant components of the marks and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions created by the marks.

59. The respective marks are:

The 2 earlier marks	The 12 applications
<p style="text-align: center;">GALA INSIDE GALA FRIENDS</p>	<p style="text-align: center;">GALA WIZARD GALA (3 applications)</p>



60. The applicant accepts that the parties' marks are similar⁵, but does not say to what extent. Mr St Quintin set out a comparison between the marks in his skeleton argument. Where I agree with him, I include some of his submissions in my assessment.

GALA WIZARD

61. The overall impressions of the parties' marks are that they consist of two well-known dictionary words, the first of which is the same: GALA. All the words

⁵ Applicant's skeleton argument, paragraphs 14 and 24.

contribute to the overall impressions, but the first word, GALA, is more dominant and distinctive because that is the word which is read first. The second word in each of the earlier marks bears no resemblance to WIZARD. There is a medium degree of visual and aural similarity owing to the identical first word, but the entirely different second word.

62. As Mr St Quintin submitted,

“28. Conceptually, a “Gala” is a social occasion with special entertainment or performance (such as in “a gala performance”), or a special sports meeting with multiple events, such as in its usage in “swimming gala”.

29. “Wizard” refers to a man with magical powers when used in mythical or legendary tales, but in modern usage means someone with particular skill in a particular field (as in, e.g. “a computer wizard”).

30. “Inside” refers to the interior part of something, such as a building, or a group of people.

31. “Friends” refers to people with bond [sic] of mutual affection or camaraderie.”

63. The parties’ marks share the GALA element, but the second words are completely conceptually dissimilar. Unlike Mr St Quintin, who submits that the second words qualify GALA, I consider the overall concept of each mark to be opaque. It is difficult to conceive what a ‘gala friend’ or a ‘gala wizard’ might be; still less, what ‘gala inside’ means. It is not simply a case of putting the two words together to create a clear concept. Since the words in combination do not create an obvious meaning and, owing to the identical first word, GALA, there is a medium degree of conceptual similarity. Overall, the marks are similar to a medium degree.

GALA (three applications)

64. The first word in the two earlier marks, GALA, is the only element of the three GALA marks. There is no second word to reduce the visual, aural, and conceptual impact of GALA, which is shared by all the marks. Overall, there is a good degree of similarity between the marks.

GALA WIZ

65. As for GALA WIZARD, GALA is more dominant and distinctive element because it is the word which will be seen and heard first. The identical first word GALA, but the entirely different second words in the marks, creates a medium degree of visual and aural similarity. WIZ is likely to be seen as an abbreviation for the word 'wizard'. Therefore, in terms of the conceptual comparison, my comments for GALA WIZARD also apply here. There is a medium degree of conceptual similarity. Overall, the marks are similar to a medium degree.



66. Whilst all the elements of the application contribute to the overall impression of the marks, Wiz is the dominant, distinctive element and carries more weight in the overall impression. I have already noted that it is GALA which has more (although not much) dominance in the earlier marks because it is the first word which will be seen and heard. The circular device is also not negligible, but will be perceived as background matter and so carries little weight in the impression of the marks, as does the flourish beneath Gala. However, in the application, Gala is far from negligible. Its smaller size, relative to Wiz, means that the visual similarity between the marks is of a low level. Presentation is lost when trade marks are spoken aloud, so I assess this as being of a medium level as both words will be articulated in all the parties' marks. The conceptual assessment is as for the word mark GALA WIZ; i.e. medium. Overall, there is a low to medium degree of similarity between the marks.

GALA TV

67. The more dominant and distinctive word in all the parties' marks is GALA, (i) because of its position as the first word in the marks, and (ii) because, in the application, it is the longer word and because TV will be seen as descriptive (television), which affects the weight it brings to the overall impression of GALA TV. There is a good level of visual similarity and a medium level of aural similarity between the parties' marks. Although GALA and TV have well-known and obvious meanings, they become, conceptually, a little nebulous in combination. Mr St Quintin submits that the application refers to televising galas or to audiovisual presentations within galas. I think this is strained. If the words were reversed, TV GALA, the submission might have more force. However, in the order in which they appear in the application, they do not combine in an obvious conceptual way. The parties' marks share the GALA meaning, but not the meanings of the second words. They are conceptually similar to a medium degree. Overall, the parties' marks are similar to a medium degree.



68. The application consists of the words Gala and TV, in stylised script. TV is contained within the flourish beneath Gala. Whilst TV is not negligible, it is very small compared to the word Gala. This, and its non-distinctiveness, means that GALA is by far the dominant and distinctive element of the marks in the series. The marks are visually similar to a good degree, despite the stylisation, because they both share the dominant element GALA. They are similar aurally to a medium level because the stylisation is lost in speech. My comments regarding the conceptual comparison are as for the word only application for GALA TV. Overall, the parties' marks are similar to a medium degree.

GALA BINGO and GALA CASINO

69. The more dominant and distinctive word in all the parties' marks is GALA, (i) because of its position as the first word in the marks, and (ii) because, in the applications, BINGO and CASINO will be seen as descriptive/non-distinctive, which affects the weight that these words bring to the overall impression of the applications. There is a medium degree of visual and aural similarity owing to the identical first word, but the entirely different second word. Mr St Quintin submits that the concepts of the applicant's marks are of a bingo gala and a casino at which gala events take place. This is strained. The mark is not BINGO GALA. At best, there is an allusion to 'a bingo gala', but my view is that the words do not combine to create an immediate meaning. A casino at which galas take place is far-fetched and unlikely. The marks of the applications contain the separate concepts of a gala, bingo and a casino. The parties' marks share the GALA meaning, but not the meanings of the second words. They are conceptually similar to a medium degree. Overall, the parties' marks are similar to a medium degree.



70. The marks of the two series applications consist of the stylised words Gala, bingo, club, online and mobile. Whilst 'bingo' is not negligible, it is small compared to the word Gala. This, and its non-distinctiveness, means that GALA is the dominant and distinctive element of the marks in the series. Club, online and mobile are all descriptive/non-distinctive words and will not feature much in consumer's perception of the marks. Furthermore, they are very small within the mark and carry little, if any weight, in the overall impression of the marks. The marks are visually similar to a good degree, despite the stylisation, because they both share the dominant element GALA. They are similar aurally to a medium level because the stylisation is lost in speech and because club, online and mobile are unlikely to be articulated in verbal use of the marks. My comments regarding the conceptual

comparison are as for the word only application for GALA BINGO. Club, online and mobile do not make much difference to the assessment, as they will mean that the goods or services are available via a club, online or via mobile technology. Overall, the parties' marks are similar to a medium degree.

Distinctive character of the earlier marks

71. In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*⁶ the CJEU stated that:

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

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51).”

72. There is no evidence of use so I have only inherent distinctiveness to consider. I said above that it is difficult to conceive what a 'gala friend' might be and still less, what 'gala inside' means. There is no obvious or immediate meaning to the marks

⁶ Case C-342/97.

as wholes. For most of the goods and services covered by the earlier marks, neither mark is descriptive or even allusive, with the exception of ‘sports and cultural activities’⁷, which would include galas. Even then, the words in combination do not create any obvious concept. The marks have a good degree of inherent distinctive character.

Likelihood of confusion

73. Deciding whether there is a likelihood of confusion is not scientific; it is a matter of considering all the factors, weighing them and looking at their combined effect, in accordance with the authorities set out earlier in this decision. One of those principles states that a lesser degree of similarity between goods and services may be offset by a greater degree of similarity between the trade marks, and vice versa (*Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc.*). The CJEU said in *Waterford Wedgwood plc v OHIM* Case C-398/07:

“35 It must be noted that the Court of First Instance, in paragraphs 30 to 35 of the judgment under appeal, carried out a detailed assessment of the similarity of the goods in question on the basis of the factors mentioned in paragraph 23 of the judgment in *Canon*. However, it cannot be alleged that the Court of First Instance did not take into account the distinctiveness of the earlier trade mark when carrying out that assessment, since the strong reputation of that trade mark relied on by Waterford Wedgwood can only offset a low degree of similarity of goods for the purpose of assessing the likelihood of confusion, and cannot make up for the total absence of similarity. Since the Court of First Instance found, in paragraph 35 of the judgment under appeal, that the goods in question were not similar, one of the conditions necessary in order to establish a likelihood of confusion was lacking (see, to that effect, *Canon*, paragraph 22) and therefore, the Court of First Instance was right to hold that there was no such likelihood.”

⁷ IR 906746, which is currently opposed.

74. There is no likelihood of confusion where there is no similarity of goods and services. Consequently, this opposition fails against:

GALA WIZARD 2415072

Class 38: *Telecommunications services relating to interactive television games programmes, entertainment and competitions; broadcasting of games programmes, entertainment and competitions; all the aforesaid relating to games, gaming, gambling, bingo, quizzes, competitions and casino-related entertainment services.*

Class 41: *Operation of casinos, bingo halls and clubs and related leisure, recreational and entertainment services; entertainment services by or relating to games; gambling services; electronic betting, gaming, gambling and lottery services; games and music broadcasts; electronic game, quiz and competition services provided online; organisation, production and management of performances and competitive events; interactive services for television viewers; interactive television games programmes, entertainment and competitions.*

GALA WIZ 2432035A&B

Class 38: *Interactive television services; telecommunication services relating to interactive television games programmes, entertainment and competitions; broadcasting of games programmes, entertainment and competitions; all the aforesaid relating to games, gaming, gambling, bingo, quizzes, competitions and casino-related entertainment services.*

Class 41: *Interactive services for television viewers; interactive television games programmes, entertainment and competitions.*

GALA TV (stylised) 2441871

Class 38: *Broadcasting; fibre optic, cable and satellite, television transmission services; data encryption and data transmission services; subscription data transmission services; subscription television broadcasting services; interactive broadcasting services; computer aided transmission of messages, text, sound, images, and radio and television programmes; broadcasting and transmission of*

interactive television, interactive entertainment and interactive games and competitions; receiving and exchange of information, messages, text, sound, images; electronic mail services; teletext services; inter-active video text services; services relating to the rental of digital, cable or satellite, video and audio-visual image transmitters for use in the transmission of television programming and informational data.

Class 41: *Entertainment services.*

GALA 2443979A and GALA TV 2443979B

Class 38: *Broadcasting; fibre optic, cable and satellite, television transmission services; subscription television broadcasting services; interactive broadcasting; broadcasting and transmission of interactive television, interactive entertainment and interactive competitions; electronic mail services; teletext services; inter-active video text services; services relating to the rental of digital, cable or satellite, video and audio-visual image transmitters for use in the transmission of television programming and informational data.*

Class 41: *Leisure facilities; gymnasium, health club, social club, amusement arcade and squash court services; snooker and pool hall services; dog racing and horse racing stadia services; providing venues, stadia, racetracks and other facilities for sports events, races and competitions; betting, gaming, games, gambling, book-making and casino services; club and nightclub facilities; bingo hall services, bingo club services; electronic game and/or gaming services; organisation and presentation of games, quizzes and competitions; interactive entertainment and interactive competition services; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice in relation to all the aforesaid.*

GALA 2448610

Class 9: *Pre-recorded DVDs, CDs, tapes, discs and films*⁸.

⁸ The opponent also opposed 'interactive television', but this does not appear in the applicant's specification as a standalone term.

GALA BINGO 2655172 and GALA CASINO 2655171

Class 09: *Downloadable games, pre-recorded DVDs, CDs, videos, tapes, discs, films; magnetic data carriers, recording discs; apparatus for recording, transmission or reproduction of sound or images; television apparatus and instruments; telecommunications equipment; electronic devices for receiving television and global communication network transmissions and transmitting them to a television or other display device and computer programs for use therewith; computer software, including downloadable computer software; computer software for online payment and transaction processing; computer software for use in playing poker; game and/or gaming software, including interactive gaming; betting terminals; mechanisms for coin-operated apparatus; all the aforesaid goods relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.*

Class 28: *Printed game cards; electronic games; interactive electronic games; apparatus for games adapted for use with television receivers.*

Class 38: *Broadcasting; fibre optic, cable and satellite, television transmission services; subscription television broadcasting services; interactive broadcasting; broadcasting and transmission of interactive television, interactive entertainment and interactive competitions; electronic mail services; teletext services; inter-active video text services; rental of digital, cable or satellite, video and audio-visual image transmitters for use in the transmission of television programming;*

Class 41: *Entertainment services and leisure facilities; organisation and presentation of gambling or gaming events, poker games, betting, playing games, bingo games; book-making and casino services; club and nightclub facilities; electronic game and/or gaming services, interactive games, interactive entertainment and interactive competition services; gaming, or entertainment provided online via the internet, by telephone, by radio or via a mobile communications network; entertainment services by television in the nature of allowing a user (viewer) to bet, gamble and play games, including poker and bingo; entertainment services namely,*

the provision of a website allowing a user to bet, gamble and play games, including poker and bingo; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

GALA 2655163

Class 09: Downloadable games, pre-recorded DVDs, CDs, videos, tapes, discs, films; magnetic data carriers, recording discs; apparatus for recording, transmission or reproduction of sound or images; television apparatus and instruments; telecommunications equipment; electronic devices for receiving television and global communication network transmissions and transmitting them to a television or other display device and computer programs for use therewith; computer software, including downloadable computer software; computer software for online payment and transaction processing; computer software for use in playing poker; game and/or gaming software, including interactive gaming; betting terminals; mechanisms for coin-operated apparatus; all the aforesaid goods relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

Class 28: Printed game cards; electronic games; interactive electronic games; apparatus for games adapted for use with television receivers.

Class 38: Broadcasting; fibre optic, cable and satellite, television transmission services; data transmission services, including transmission of data featuring encryption and decryption; subscription data transmission services; subscription television broadcasting services; interactive broadcasting and communications services; computer aided transmission of radio and television programmes; broadcasting and transmission of interactive television, interactive entertainment and interactive competitions; receiving and exchange of information, messages, text, sound, images and data; electronic mail services; teletext services; inter-active video

text services; rental of digital, cable or satellite, video and audio-visual image transmitters for use in the transmission of television programming;

Class 41: Entertainment services and leisure facilities; organisation and presentation of gambling or gaming events, poker games, betting, playing games, bingo games; book-making and casino services; club and nightclub facilities; electronic game and/or gaming services, interactive games, interactive entertainment and interactive competition services; gaming, or entertainment provided online via the internet, by telephone, by radio or via a mobile communications network; operation of a TV channel allowing a user to bet, gamble and play games, including poker and bingo; entertainment services namely, the provision of a website allowing a user to bet, gamble and play games, including poker and bingo; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

3034407 and 3034390 (the two composite Gala Bingo marks)

Class 09: Downloadable games, pre-recorded DVDs, CDs, videos, tapes, discs, films; magnetic data carriers, recording discs; apparatus for recording, transmission or reproduction of sound or images; television apparatus and instruments; telecommunications equipment; electronic devices for receiving television and global communication network transmissions and transmitting them to a television or other display device and computer programs for use therewith; computer software, including downloadable computer software; computer software for online payment and transaction processing; computer software for use in playing poker; game and/or gaming software, including interactive gaming; betting terminals; mechanisms for coin-operated apparatus; all the aforesaid goods relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

Class 28: *Printed game cards; electronic games; interactive electronic games; apparatus for games adapted for use with television receivers.*

Class 38: *Broadcasting; fibre optic, cable and satellite, television transmission services; subscription television broadcasting services; interactive broadcasting; broadcasting and transmission of interactive television, interactive entertainment and interactive competitions; electronic mail services; teletext services; inter-active video text services; rental of digital, cable or satellite, video and audio-visual image transmitters for use in the transmission of television programming.*

Class 41: *Entertainment services and leisure facilities; organisation and presentation of gambling or gaming events, poker games, betting, pool betting, tote betting, playing games, bingo games; gambling or gaming services, betting, pool betting, tote betting, book-making and casino services; club and nightclub facilities; electronic game and/or gaming services, interactive games, interactive entertainment and interactive competition services; gaming, or entertainment provided online via the internet, by telephone, by radio or via a mobile communications network; operation of a TV channel allowing a user to bet, gamble and play games, including poker and bingo; entertainment services namely, the provision of a website allowing a user to bet, gamble and play games, including poker and bingo; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, tote betting, pool betting, playing bingo, playing games, book-making or casino services.*

75. In *Whyte and Mackay Ltd v Origin Wine UK Ltd and Another* [2015] EWHC 1271 (Ch), Arnold J. considered the impact of the CJEU's judgment in *Bimbo*, Case C-591/12P, on the court's earlier judgment in *Medion v Thomson*. The judge said:

“18 The judgment in *Bimbo* confirms that the principle established in *Medion v Thomson* is not confined to the situation where the composite trade mark for which registration is sought contains an element which is identical to an

earlier trade mark, but extends to the situation where the composite mark contains an element which is similar to the earlier mark. More importantly for present purposes, it also confirms three other points.

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

20 The second point is that this principle can only apply in circumstances where the average consumer would perceive the relevant part of the composite mark to have distinctive significance independently of the whole. It does not apply where the average consumer would perceive the composite mark as a unit having a different meaning to the meanings of the separate components. That includes the situation where the meaning of one of the components is qualified by another component, as with a surname and a first name (e.g. BECKER and BARBARA BECKER).

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

76. In my assessment of the parties’ marks, I said that the combinations of GALA and another element or word (Friends, Inside, Wizard, Wiz, TV, Bingo and Casino) did not create a conceptual unit. The word GALA, and the second word elements have independent distinctive roles within each mark. Three of the applications

consist entirely of the word GALA, which forms the beginning of the earlier marks and is the more dominant and distinctive element of the earlier marks. The earlier marks have a good degree of distinctive character. I have found that a normal degree of attention will be paid during the selection process; and the goods and services where I have found similarity are either identical or high in similarity. These are all factors pointing in the opponent's favour. I think it unlikely that the marks will be directly confused because of the very different second words. However, the independently distinctive role played by GALA will lead to an assumption by the average consumer that the parties are economically linked in some way. This is indirect confusion. Some (non-exhaustive) examples were given by Mr Iain Purvis Q.C., sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc*, Case BL O/375/10:

“16. Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different from the earlier mark. It therefore requires a mental process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: “The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark.

17. Instances where one may expect the average consumer to reach such a conclusion tend to fall into one or more of three categories:

(a) where the common element is so strikingly distinctive (either inherently or through use) that the average consumer would assume that no-one else but the brand owner would be using it in a trade mark at all. This may apply even where the other elements of the later mark are quite distinctive in their own right (“26 RED TESCO” would no doubt be such a case).

(b) where the later mark simply adds a non-distinctive element to the earlier mark, of the kind which one would expect to find in a sub-brand or brand extension (terms such as “LITE”, “EXPRESS”, “WORLDWIDE”, “MINI” etc.).

(c) where the earlier mark comprises a number of elements, and a change of one element appears entirely logical and consistent with a brand extension (“FAT FACE” to “BRAT FACE” for example).”

Outcome

77. The applications are partially refused under section 5(2)(b) of the Act, as follows:

GALA WIZARD 2415072

Class 16: *Tokens; game cards, score cards.*



2441871

Class 38: *Interactive communications services; providing access to gambling and gaming websites on the Internet.*

GALA 2443979A

Class 41: *Operation of a website or TV channel allowing a user to bet, gamble and play games, including bingo; providing access to gambling and gaming websites on the Internet.*

GALA TV 2443979B

Class 41: *Operation of a website or TV channel allowing a user to bet, gamble and play games, including bingo; providing access to gambling and gaming websites on the Internet*

GALA BINGO 2655172

Class 16: *Printed scorecards; coupons and vouchers; score cards; all relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.*

Class 38: *Providing access to a website or transmission of a TV channel allowing a user to bet, gamble and play games, including bingo (Interactive TV); providing access to gambling and gaming websites on the internet; providing access to websites on the internet to play games; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.*

Class 41: *Education, teaching and training relating to playing games, gambling, gaming, poker, bingo, betting, book making; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.*

GALA CASINO 2655171

Class 16: *Printed scorecards; coupons and vouchers; score cards; all relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.*

Class 38: *Providing access to a website or transmission of a TV channel allowing a user to bet, gamble and play games, including bingo (Interactive TV); providing access to gambling and gaming websites on the internet; providing access to websites on the internet to play games; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.*

Class 41: *Education, teaching and training relating to playing games, gambling, gaming, poker, bingo, betting, book making; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.*

GALA 2655163

Class 16: *Printed scorecards; coupons and vouchers; printed game cards; score cards; all relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.*

Class 38: *Operation of a website or TV channel allowing a user to bet, gamble and play games, including bingo; providing access to gambling and gaming websites on the internet; providing access to websites on the internet to play games; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.*

Class 41: *Education, teaching and training relating to playing games, gambling, gaming, poker, bingo, betting, book making; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.*



3034407

Class 16: Printed scorecards; coupons and vouchers; score cards; all relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.

Class 38: Operation of a website or TV channel allowing a user to bet, gamble and play games, including bingo; providing access to gambling and gaming websites on the internet; providing access to websites on the internet to play games; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, tote betting, pool betting, playing bingo, playing games, book-making or casino services.

Class 41: Education, teaching and training relating to playing games, gambling, gaming, poker, bingo, betting, book making; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, tote betting, pool betting, playing bingo, playing games, book-making or casino services.



3034390

Class 16: *Printed scorecards; coupons and vouchers; score cards; all relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, playing bingo, playing games, book-making or casino services.*

Class 38: *Operation of a website or TV channel allowing a user to bet, gamble and play games, including bingo; providing access to gambling and gaming websites on the internet; providing access to websites on the internet to play games; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, tote betting, pool betting, playing bingo, playing games, book-making or casino services.*

Class 41: *Education, teaching and training relating to playing games, gambling, gaming, poker, bingo, betting, book making; all the aforesaid services also provided on-line from a computer database, by telephony or the Internet; provision of information services and advice in relation to all the aforesaid; all the aforesaid services relating to or offered in connection with casinos, gambling, gaming, poker gaming, betting, tote betting, pool betting, playing bingo, playing games, book-making or casino services.*

78. The applications may proceed to registration for the goods and services set out in paragraph 74, above.

Status of this decision

79. This is a provisional decision. When the opposition proceedings against IR 906746 have been resolved, I will issue a supplementary decision which will include a decision on costs. The appeal period will run from the date of the supplementary decision.

Direction to Coral Group Trading Limited

80. I direct the applicant, Coral Group Trading Limited, to inform me when the status of IR 906746 alters.

Dated this 17th day of February 2017

A handwritten signature in black ink, consisting of a stylized 'JP' followed by a large, sweeping loop.

Judi Pike

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