

**O/560/19**

**TRADE MARKS ACT 1994**

**CONSOLIDATED PROCEEDINGS**

**IN THE MATTER OF APPLICATION NUMBERS 2593457, 3024322 AND 3037747  
BY TI MEDIA LIMITED FOR THE TRADE MARK**

**IDEAL HOME**

**AND**

**THE OPPOSITIONS THERETO UNDER NUMBERS 400260, 401787 AND 402686  
BY MEDIA 10 LIMITED**

**AND**

**IN THE MATTER OF APPLICATION NUMBERS 2571171 AND 3035681  
BY MEDIA 10 LIMITED FOR THE TRADE MARKS**

**IDEAL HOME SHOW**

**AND**

**IDEAL HOME**

**AND**

**THE OPPOSITIONS THERETO UNDER NUMBERS 410376 AND 411944  
BY TI MEDIA LIMITED**

## Background

1. The parties in this dispute are Media 10 Limited and TI Media Limited. Two judgments from the Intellectual Property Enterprise Court (“IPEC”)<sup>1</sup> and the Court of Appeal of England and Wales (“Court of Appeal”)<sup>2</sup> set out the history of the co-existence of the parties’ respective marks IDEAL HOME SHOW (for a home interest show) and IDEAL HOME (for a home interest magazine). An opposition by TI Media Limited<sup>3</sup> to Media 10 Limited’s application for IDEAL HOME SHOW (number 2465468) was largely unsuccessful, save in respect of ‘brochures’, for which the application was refused<sup>4</sup>. In that decision, I took into account the earlier findings made by the courts. This decision does likewise, in addition to taking into account the concessions made in the present proceedings at a hearing held in Newport on 26 February 2019. Mr Tom Alkin, of Counsel, represented TI Media Limited, instructed by HGF Limited. Mr Martin Krause, of Haseltine Lake Kempner LLP, represented Media 10 Limited. As in my earlier decision, I will refer to Media 10 Limited as “Show”, and to TI Media Limited as “Magazine”.

2. Show’s oppositions to Magazine’s three applications for the mark IDEAL HOME are as follows:

(i) 2593457 (opposition 400260). Filing date 2 September 2011, published 15 February 2013. Opposition against *Insurance services; provision of home insurance, pet insurance, travel insurance, car and motor insurance and information, consultancy and advisory services relating to all the aforesaid services* (Class 36) under sections 5(2)(b) and 5(3) of the Trade Marks Act 1994 (“the Act”). Show relies on the following earlier marks:

- 2465468 IDEAL HOME SHOW. Filing date 29 August 2007; registered 14 October 2016. Relies on all goods and services in classes 9, 16, 35, 38, 41 and 42, as shown in the Annex, for both its grounds of opposition.

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<sup>1</sup> *IPC Media Limited v Media 10 Limited* [2013] EWHC 3796 (IPEC)

<sup>2</sup> *IPC Media Limited v Media 10 Limited* [2014] EWCA Civ 1439

<sup>3</sup> Then called IPC Media Limited.

<sup>4</sup> Intellectual Property Office BL O/384/16

- 2571171 IDEAL HOME SHOW. Filing date 3 February 2011. This application is partially opposed by Magazine, as detailed below. Show relies upon all goods and services in classes 2, 3, 4, 6, 7, 8, 9, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 24, 25, 27, 28, 35, 36, 37, 38, 39, 41 and 42, as shown in the Annex, for both its grounds of opposition.

(ii) 3024322 (opposition 401787). Filing date 1 October 2013, published 29 November 2013. Opposition against *Printed publications*, in Class 16, under sections 5(2)(b), 5(3) and 5(4)(a). Show relies on the following earlier marks:

- 2465468 IDEAL HOME SHOW, as above, for sections 5(2)(b) and 5(3).
- 2571171 IDEAL HOME SHOW, as above, for sections 5(2)(b) and 5(3).
- IDEAL HOME, under section 5(4)(a), on the basis of use in the UK since 1 January 1908 in relation to printed publications and other printed matter.
- IDEAL HOME SHOW, under section 5(4)(a), on the basis of use in the UK since 2000 in relation to printed publications and other printed matter.

(iii) 3037747 (opposition 402686). Filing date 14 January 2014, published 13 June 2014. Opposition under sections 5(1), 5(2)(a), 5(2)(b) and 5(3) against *paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists*, in class 2; *laundry preparations and substances; bleaching preparations and other substances for laundry use; dry cleaning preparations; cleaning, polishing, scouring and abrasive preparations; soaps; washing up liquid, surface leaning preparations*, in class 3; *candles and wicks for lighting*, in class 4; *hand tools and implements (hand-operated); cutlery; side arms; razors; hand implements for kitchen use; knives; can openers; scissors; disposable cutlery made of plastics; pedicure sets; manicure sets; nail clippers; can and jar openers, fruit and vegetable peelers, pizza cutters, cheese planes, fruit corers, tongs, canapé forks and spreaders, spiral slicers and nut crackers; parts and fittings for all of the aforesaid goods*, in class 8; *apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes; kitchen ranges; kitchen machines (gas, electric) for cooking; electrical*

*apparatus for making or brewing beverages; toasters; coffee machines, coffee percolators; tea machines; water heaters; hair dryers; waffle irons; ovens and cookers; kettles; tumble dryers; fridges; freezers; combined fridges and freezers; fans and fan heaters; water purifiers; ionisers; microwave ovens; domestic fireplaces; electric blankets; air conditioning apparatus; air deodorising apparatus; water filters; water softening apparatus; lamps and lampshades; light bulbs; torches; roasters; bread makers; ice cream makers; Christmas tree lights; gas lighters; barbecues; baths and bath fittings; sanitary ware; sinks and basins; shower cubicles; bathroom suites; bathroom fixtures and installations; showers; steam facial apparatus; sterilizers; solar water heaters; hot water bottles; humidifiers; parts and fittings for all the aforesaid goods, in class 11; buildings, residential dwellings, houses, apartments, prefabricated buildings, transportable buildings, sheds, structures of non-metallic materials, garages, gazebos, summer houses, conservatories, swimming pools; parts and fittings for all the aforesaid goods; building construction materials; all included in Class 19; decorations and ornaments for Christmas trees; artificial Christmas trees; Christmas tree stands; Christmas decorations included in the class; toys, games and playthings, in class 28; painting and decorating services; advisory and information services relating to painting and decorating including on-line from a computer database and/or the Internet, in class 37; photographic duplicating and printing services, in class 40; provision of radio and television programmes and entertainment services; preparation and production of television shows and television programs including cable television programs; television programming; hosting (organizing) awards; provision and conducting of educational courses; publishing; library and archive services; photography and photographic services; information and advisory services relating to all the aforesaid services, in class 41. Show relies on the following marks:*

- 3035681 IDEAL HOME. This application is opposed in full by Magazine, as detailed below. Show relies on all its goods and services in classes 2, 3, 4, 6, 7, 8, 9, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 24, 25, 27, 28, 35, 36, 37, 39, 41 and 42, as shown in the Annex, for its 5(1), 5(2)(a) and 5(3) grounds of opposition.
- 2465468 IDEAL HOME SHOW, as above, for sections 5(2)(b) and 5(3).

- 2571171 IDEAL HOME SHOW, as above, for sections 5(2)(b) and 5(3).
- IDEAL HOME SHOW, under section 5(4)(a), on the basis of use in the UK since 1 January 2000 in relation to exhibitions; shows; publicity and promotional services; advertising; all kinds of consumer goods displayed and offered for sale at a consumer home show; retail services; the bringing together of a variety of goods to enable consumers to conveniently view and purchase those goods from a home show, by mail order, the internet or by telephone; product sourcing; printed publications; printed matter; show guides; publicity and promotional material; entertainment services; publishing services; competitions; special offers; information, advisory and consultancy services relating to homes and gardens, home improvements, painting and decorating, home décor, gardening and landscaping, interior decorating, furniture, furnishings, building and repair services; provision of commercial information, product and supplier reviews; provision of a website.
- IDEAL HOME, under section 5(4)(a), on the basis of use in the UK since 1 January 1908 in relation to the goods and services listed immediately above.

3. Magazine's oppositions to Show's two applications for the marks IDEAL HOME SHOW and IDEAL HOME are as follows:

(i) 2571171 (opposition 410376) IDEAL HOME SHOW. Filing date 3 February 2011, published 30 June 2017. Partially opposed under sections 5(2)(b), 5(3) and 5(4)(a) against *on-line electronic publications; electronic publications (downloadable)*, in class 9; *goods made from cardboard and paper, not included in other classes; printed matter; brochures; magazines; newsletters; pamphlets*, in class 16; *retail and wholesale services, including via the Internet, mail order, electronic and printed publications, websites or other communication networks, connected with the sale of on-line electronic publications (downloadable), goods made from paper and cardboard, printed matter, brochures, magazines, newsletters, pamphlets, goods made of paper or cardboard, magazines, books, printed matter, publications*, in class 35; *publication of printed matter and printed publications; publishing and publication services; electronic publishing services; providing on-line*

*publications (not downloadable); publication of electronic books and journals on-line; commissioned writing*, in Class 41. Magazine relies on the following marks:

- 1260437 IDEAL HOME. Filing date 14 February 1986; registered 8 April 1988. Relies on *printed publications and periodicals*, in class 16, for its section 5(2)(b) and 5(3) grounds.
- 2218623 IDEAL HOME. Filing date 5 January 2000, registered 28 July 2000. Relies on *computer software; CD-Roms containing information for presentation on a screen in magazine-type format; information stored in or on electronic, magnetic and/or optical media; all being information in magazine-type format*, in class 9; and *information and advisory services relating to homes, home decoration and improvement and lifestyle all provided on-line from a database or from facilities provided on the Internet or other networks (including websites); all provided in magazine format*, in class 41, for its section 5(2)(b) and 5(3) grounds.
- 2253401 IDEAL HOME. Filing date 17 November 2000; registered 8 October 2004. Relies on *the bringing together for the benefit of others, of a variety of goods, enabling customers to conveniently view and purchase those goods by mail order from a magazine*, in class 35, for its section 5(2)(b) and 5(3) grounds.
- 2435081A IDEAL HOME. Filing date 10 October 2006; registered 25 June 2010. Relies on *household or kitchen utensils and containers; combs and sponges; brushes; articles for cleaning purposes; china, glassware, tableware, dinner services, kitchenware, crockery, porcelain, ceramics and earthenware, cutlery*, in class 21; *textiles, textile goods including cushion covers, bedlinen, towels, tablecloths, napkins and serviettes; curtain rails, blinds, Venetian blinds, soft furnishings; bedding; beds, mattresses, duvets, quilts, pillows*, in class 24; *wallpapers, wall coverings (not of textile), borders (not of textile); floor coverings; carpets and rugs*, in class 27; and *the bringing together for the benefit of others, of a variety of house wares, domestic electrical goods and appliances, garden equipment, plants and furniture, home furnishings, lighting apparatus, enabling customers to conveniently view and purchase those goods from catalogues by mail order or by means of*

*telecommunications including via the Internet and television shopping*, in class 35, for its section 5(2)(b) and 5(3) grounds.

- EUTM 6731863 IDEAL HOME. Filing date 6 March 2008; registered 16 January 2009. Relies on *electronic publications (downloadable); information provided on-line from a database or from facilities provided on the Internet or other electronic or digital networks (including websites)*, in class 9; *magazines; printed publications*, in class 16; and *information and advisory services relating to the design of homes; information and advisory services relating to interior design, room design, interior décor; information and advisory services relating to the improvement of all the aforesaid; including the aforesaid services provided on-line from a database or from facilities provided on the Internet or other electronic or digital networks (including websites)*, in class 42, for its section 5(2)(b) and 5(3) grounds.
- 2488476 IDEAL HOME. Filing date 27 May 2008; registered 19 February 2010. Relies on *furniture, mirrors, mirrored furniture, storage units, storage chests, shelving units, tables, bedroom furniture, cabinets, garden furniture, benches, kitchen furniture, chaise longues, sofa beds, seating units, chairs, ottomans, footstools*, in class 20, for its section 5(2)(b) and 5(3) grounds.
- IDEAL HOME, under section 5(4)(a), on the basis of use in the UK since 1920 in relation to *printed publications and periodicals; magazines*.

(ii) 3035681 (opposition 411944) IDEAL HOME. Filing date 19 December 2013; published 26 January 2018. The full list of goods and services applied for is shown in Annex 1. Magazine opposes this application in full under sections 5(1), 5(2)(a), 5(2)(b), 5(3) and 5(4)(a), except in relation to *organisation of exhibitions and shows*, in class 41, relying upon the following earlier marks:

- 1260437 IDEAL HOME, as above, for sections 5(1), 5(2)(a) and 5(3).
- 2218623 IDEAL HOME, as above, for sections 5(1), 5(2)(a) and 5(3).
- 2253401 IDEAL HOME, as above, for sections 5(1), 5(2)(a) and 5(3).
- 2435081A IDEAL HOME, as above, for sections 5(1), 5(2)(a) and 5(3).
- EUTM 6731863 IDEAL HOME, as above, for sections 5(1), 5(2)(a) and 5(3).
- 2488476 IDEAL HOME, as above, for sections 5(1), 5(2)(a) and 5(3).

- IDEAL HOME, under section 5(4)(a), on the basis of use in the UK since 1920 in relation to *printed publications and periodicals; magazines*.

4. Both parties filed defences and counterstatements in relation to all of their marks. Proof of use was requested in respect of goods and services which had been registered for more than five years at the date of publications of the relevant contested applications<sup>5</sup>. Both parties filed evidence, in addition to relying on the court judgments. I will refer to the evidence as appropriate.

### **The court judgments**

5. The infringement proceedings in IPEC<sup>6</sup> were brought by Magazine against Show. Magazine owned the mark IDEAL HOME, applied for in 2006 and registered in 2010<sup>7</sup>, for *the bringing together for the benefit of others, of a variety of house wares, domestic electrical goods and appliances, garden equipment, plants and furniture, home furnishings, lighting apparatus, enabling customers to conveniently view and purchase those goods from catalogues by mail order or by means of telecommunications including via the Internet and television shopping*, in class 35. Magazine's complaint was that Show's use of IDEAL HOME SHOW in relation to an online shop selling home interest goods infringed Magazine's trade mark. Show counterclaimed that Magazine's trade mark registration was invalid.

6. The deputy judge, Mr John Baldwin QC, found that both the infringement and invalidity claims failed. I set out below the passages which are key to the issues to be decided in the current proceedings:

"3. [Magazine's Ideal Home magazine] has been characterised as the first ever mass-market home interest magazine and it has been the market leader for many years. It currently has an average monthly circulation of about 200,000 copies with a readership some 5 times that number. It is supported

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<sup>5</sup> Section 6A of the Act refers.

<sup>6</sup> *IPC Media Limited v Media 10 Limited* [2013] EWHC 3796 (IPEC).

<sup>7</sup> Earlier mark 2435081A.



by an annual promotional spend of about £1 million and currently generates nearly three times that amount in advertising revenue.

...

7. ...I am satisfied on the evidence (indeed, it was not seriously challenged) that, in the context of magazines, the words Ideal Home signify to a substantial number of the relevant public the magazine published by and connected with IPC Media. I am also satisfied that this meaning in this context would be appreciated by the average consumer for the purposes of trade mark law.

8. ... The Ideal Home Exhibition turned into a Show sometime in the 1990s, apparently to reflect a more modern image, and it has become widely known as the Ideal Home Show or, simply and when it was clear from the context that the reference was to an Exhibition or Show, the Ideal Home.

9. Although similar in some respects to other trade or wholesale fairs, from the outset, that is to say, from 1908, one of the main purposes of the Exhibition was the retail sale to the general public of novel and popular home interest commodities. There can be little doubt that the project has been very successful; in 2013 the Spring Show at Earls Court attracted some 265,000 visitors during its 18 day run and their spend during that short period totalled the impressive figure of some £239 million.

...

11. ... I am satisfied on the evidence (indeed, it was not seriously challenged) that, in the context of Exhibitions or Shows, the words Ideal Home signify to a substantial number of the relevant public the Show operated by and connected with Media 10. I am also satisfied that this meaning in this context would be appreciated by the average consumer for the purposes of trade mark law.

12. Thus I have concluded that the words Ideal Home when used as a trade mark in the home interest category may convey a different meaning depending on whether the context is a magazine or an exhibition/show. A real possibility, however, is that a consumer, whilst recognising the different meanings in the different contexts, does not actually perceive them to be different in a material way, i.e. believes that the Ideal Home magazine and the Ideal Home Show are connected to each other in some way. Such is likely to depend on how the respective entities have been marketed over the years.

...

16. Given the very long and widespread usage of Ideal Home as (i) the name of a best selling magazine showcasing home interest products and where to buy them and (ii) the name of a hugely popular show showcasing home interest products with opportunities to buy them, it would, to my mind, not be surprising if many consumers did think the two businesses were connected. In this context it is relevant to take into account the extent to which the parties have attempted to make it clear to consumers that their respective businesses are not connected in a material way.

...

21. There was some suggestion in the cross examination of the witnesses that one side or the other was at fault for what I find is a widespread belief amongst consumers that the businesses of the Magazine and the Show are connected with each other. I do not think that either party is at fault. It seems to me that for some time the parties have chosen to conduct their businesses without taking any steps or any effective steps to educate consumers about the true position with regard to the ownership or control of the different businesses.

22. In my judgment the average consumer in the home interest goods market would recognise the name Ideal Home when used in connection with home interest products as a trade mark for either a magazine or a show and would

or may well think, if they thought about it at all, that it identified the business of a single entity or, more likely, the businesses of connected entities. In my judgment there are a sufficiently large number of such consumers who would think that there is such a connection that they cannot be ignored.

23. The consequence of this is that there is some confusion between the two businesses by reason of their respective uses of the words Ideal Home. It may well be, however, that since the respective businesses of publishing a consumer home interest magazine and running a consumer home interest show are different, then this confusion was of little consequence - it was more in the nature of an administrative inconvenience than anything else.

...

34. In connection with the absolute grounds for refusal of a registration in section 3 of the Act, I accept that the term Ideal Home is an apt descriptor of a nice place to live. But I am satisfied on the evidence that, by reason of the massive user by both IPC Media in connection with Ideal Home Magazine and Media 10 in connection with the Ideal Home Show (and their respective predecessors in title), the sign Ideal Home, when used in connection with a business in home interest goods, has acquired a secondary meaning. I accept that the businesses in which the sign has been used are much wider in scope than the specification of services for which registration was granted. But the sign has the status of a household name in connection with home interest goods. Moreover, it would in my view be artificial and wrong to limit the analysis to user in relation only to the services in the specification. Ideal Home, in my judgment, is a sign which has trade mark significance when used as a trade mark in connection with home interest goods and services generally and, accordingly, the attack based on absolute grounds fails.

...

43. I do not intend by this conclusion to suggest there would be no passing off if, for example, IPC Media were to launch a home interest show under the

name Ideal Home, or if Media 10 were to launch a consumer magazine under the name Ideal Home. Such would depend on the circumstances surrounding that launch. But the sale of home interest goods by either party under the Ideal Home name is, in my judgment, sufficiently in the middle of the spectrum between the respective core businesses for neither party to be able to succeed against the other in a passing off claim.

...

56. In the present case, the names are the same (ignoring the 'show' difference for the moment) and the concurrent use has been in the same general area of business, i.e. home interest goods, but the respective individual uses have been different - one has been in relation to a monthly magazine showcasing and relating to home interest products and the other in relation to an exhibition showcasing and relating to home interest products. Furthermore, and as I have already mentioned, the parties have not marketed their products or services or otherwise conducted themselves in a way which might have educated consumer that the respective businesses were not connected. Indeed, my conclusion is that there has been a tendency to encourage the reverse.

57. To my mind, the key point of similarity between this case and Budweiser is that the name Ideal Home as a trade mark in the field of home interest goods or services has never (or, at least, since about 1920) signified only one business; it has signified either the business of the magazine or that of the show. In circumstances where the context shows the name is a reference to a magazine and not a show (or vice versa), then that context provides a partial answer. It is only a partial answer because it may not tell the consumer that the magazine and the show are the responsibility of unrelated undertakings; in some circumstances it will, but in others it will not.

58. My conclusion from the evidence is that the scenario just outlined was the position in 2006 when IPC Media applied for the trade mark registration in suit. Furthermore, that conclusion is not altered by the fact that the

specification of services for which registration is sought is different from that of the core businesses of either party or, in particular, the business of operating a show. In my judgment, the almost total overlap in subject matter of the two businesses (showcasing (in a wide sense) home interest goods to consumers) together with the nature of that subject matter (every day type products) has the consequence that it is not realistic to consider the services within the specification in suit to be so different from those with which the parties are already engaged that the average consumer would be alerted and think that the guarantee of origin provided by the registered mark would be different from that provided by and associated with Ideal Home in the wider field of home interest goods generally.

59. This brings me to Mr Mellor QC's submission to the effect that Media 10's use of Ideal Home Show in connection with its online shopping business does not impair the guarantee of origin provided by IPC Media's Ideal Home trade mark. I accept that submission. The fact of the matter is that by reason of the concurrent use by both parties over many years, the guarantee of origin afforded by the mark and protected by the registration was flawed (or, if flawed is not the appropriate description, was not the same as the guarantee provided by a trade mark in the normal circumstances of a single user of a mark).

60. My conclusion therefore is that although there may be some confusion caused by use of Ideal Home Show as a trade mark for online retail shopping, that confusion is no more than may be expected by reason of the concurrent trading by the parties in their core businesses using Ideal Home, and is not such as to affect the function of IPC Media's trade mark more adversely than it is already affected by virtue of the long standing uses by these separate businesses.

62. ...Moreover, as soon as the matters spreads out into a reputation in connection with home interest goods and the showcasing thereof, there is a massive overlap between the reputation belonging to IPC Media and that belonging to Media 10. The consequence is that, as I concluded when dealing

with the attack on the validity of the registration, Ideal Home as a mark does not "denote the retail services of the proprietor alone", using the language of Mr Abrahams' written submission... .

63. I accept that the consequences of my conclusions open up the possibility of some confusion between the online retail businesses of IPC Media and Media 10. It should be in the interests of both parties for that confusion to be kept to the minimum by appropriate measures such as choice of get up and the like. Furthermore, the conclusions I have reached in this judgment may have little relevance should either party venture into the core business of the other. Although I heard no argument upon the matter, such might give rise to a significant change in the status quo and so might be different in kind from the matters which are the subject of this action.”

7. Both Magazine and Show appealed. The Court of Appeal unanimously dismissed the parties' appeals<sup>8</sup>. Referring to *BudeJovickyý Budvar NP v Anheuser-Busch Inc* [2012] RPC 11, Case C-482/09<sup>9</sup>, Kitchin LJ said:

“46. The Court then explained (at [75]) that it was to be noted that the use by Budvar of the Budweiser mark had not had and was not liable to have an adverse effect on the essential function of the Budweiser mark owned by Anheuser-Busch. It proceeded to point out that the facts of the case were exceptional in five respects:

“77. First, the referring court states that Anheuser-Busch and Budvar have each been marketing their beers in the United Kingdom under the word sign 'Budweiser' or under a trade mark including that sign for almost 30 years prior to the registration of the marks concerned.

78. Second, Anheuser-Busch and Budvar were authorised to register jointly and concurrently their Budweiser trade marks following a

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<sup>8</sup> *IPC Media Ltd v Media 10 Ltd* [2014] EWCA Civ 1439

<sup>9</sup> Court of Justice of the European Union

judgment delivered by the Court of Appeal (England & Wales) (Civil Division) in February 2000.

79. Third, the order for reference also states that, while Anheuser-Busch submitted an application for registration of the word 'Budweiser' as a trade mark in the United Kingdom earlier than Budvar, both of those companies have from the beginning used their Budweiser trade marks in good faith.

80. Fourth, as was stated in para.10 of this judgment, the referring court found that, although the names are identical, United Kingdom consumers are well aware of the difference between the beers of Budvar and those of Anheuser-Busch, since their tastes, prices and get-ups have always been different.

81. Fifth, it follows from the coexistence of those two trade marks on the United Kingdom market that, even though the trade marks were identical, the beers of Anheuser-Busch and Budvar were clearly identifiable as being produced by different companies.”

47. The Court reiterated (at [82]) that, in circumstances such as these, a long period of honest concurrent use of two identical marks designating identical products neither had nor was liable to have an adverse effect upon the essential function of the mark. It then answered the referred question in these terms:

"84. In the light of the foregoing, the answer to the third question is that Art.4(1)(a) of Directive 89/104 must be interpreted as meaning that the proprietor of an earlier trade mark cannot obtain the cancellation of an identical later trade mark designating identical goods where there has been a long period of honest concurrent use of those two trade marks where, in circumstances such as those in the main proceedings, that use neither has nor is liable to have an adverse effect on the essential

function of the trade mark which is to guarantee to consumers the origin of the goods or services."

48. Now it is entirely true to say that the facts of the present case are different from those of *Budweiser*. Moreover, the circumstances of *Budweiser* were clearly exceptional. However, I do not understand the reasoning or guidance of the Court of Justice to be limited to only those cases which share all five characteristics of that case. To the contrary, it seems to me that the Court has made it clear that the fundamental question to be asked and answered in any particular case is whether the impugned use does or does not have an effect upon the functions of the trade mark.

49. Further and importantly in the present context, the Court has not ruled that honest concurrent use cannot avail a trader if the impugned use is liable to cause some confusion. Indeed, this court was required to consider that very question in deciding the ultimate outcome of that case, for Anheuser-Busch argued that, in the light of the guidance given by the Court, the doctrine could only apply where the level of confusion was *de minimis*. It continued that if there was a level of confusion above that, then the essential function of the trade mark relied upon would be impaired and a case of permissible honest concurrent use would not be made out.

50. This court rejected that submission. Sir Robin Jacob (with whom Ward LJ and Warren J agreed) put it this way ([2013] RPC 12):

"20. I do not accept that. The Court could have said just that but did not. The rather self evident point as to the effect of a long period of honest concurrent use was clearly laid before the Court when I summarised Mr Mellor's submission:

"Mr Mellor suggests that the Court might recognise a further exception in the case of long established honest concurrent use. For in such a case the guarantee of origin of the mark is not impaired by the use of the mark by each party. Once such concurrent use is established the mark does not solely indicate



the goods of just one of the users. It means one or the other. Hence there is no impairment of the guarantee and, if impairment is the touchstone of art.4(1), no infraction of it."

21. The Court did not rule that only *de minimis* levels of confusion are acceptable when there is honest concurrent use. Nor did the Court rule that the inevitable confusion in a same mark/same goods case is enough to take a case out of acceptable concurrent use. Yet that is what Mr Bloch's submissions involve.

22. More fundamentally, Mr Bloch's submissions involve the unstated premise that even where there is long established honest concurrent use the mark of one party must provide a guarantee of origin in that party and not the other. That is quite unrealistic. Here for instance, Budweiser has never denoted AB's beer alone.

23. So I do not think that there is any impairment of the guarantee of origin – of either side's mark. The guarantee is different given a situation of long established honest concurrent use."

51. I respectfully agree that there may well be more than *de minimis* confusion in a case of honest concurrent use. No doubt many consumers will recognise that the marks are used by different businesses, but others will not. In other words, once honest concurrent use is established, the mark does not solely indicate the goods or services of just one of the users. As Sir Robin Jacob explained, in such a case the guarantee given by the mark is different.

52. I turn then to consider the application of these principles in this case and in the light of the findings of fact that the deputy judge has made. The words Ideal Home have been used as or as part of the names of a magazine and a show directed to home interest products since 1920. The deputy judge has found that the reputation and goodwill attaching to each of the businesses is very substantial indeed. It follows that neither can complain about the honest use by the other of the words Ideal Home in relation to their respective core businesses, that is to say, in the case of IPC, publishing a magazine

concerned with home interest products, and, in the case of Media 10, operating shows of home interest products at which such products are sold. That is so despite the fact that, as the deputy judge also found, consumers may well think that the two businesses are one and the same or are at least connected.

53. In my judgment the same considerations apply to the provision of home interest retail services online by IPC under the name Ideal Home, and by Media 10 under the name Ideal Home Show. The deputy judge has found that these services are so closely related to the activities the parties have carried on for very many years that the words Ideal Home provide to consumers just the same guarantee that they have always provided, that is to say that the services are those of the entity responsible for running the show or the magazine or, to many consumers, the entity responsible for both of them. In other words, he has found on the facts that the name Ideal Home, when used in relation to such online retail services, does not denote and has never denoted to average consumers the services of a single entity. Rather, it denotes and has always denoted the services of both IPC and Media 10, that is to say the services of the businesses responsible for publishing Ideal Home magazine and running the Ideal Home show. Sometimes the circumstances of the use may suggest that the services are those of one business rather than the other. But that will not always be so. Further and in any event, many consumers believe the businesses are one and the same or are at least connected.

54. I recognise, as did the deputy judge, that the confusion that occurred whilst the parties limited themselves to running a show and a magazine was more in the nature of an administrative inconvenience. I also accept the finding of the deputy judge that his conclusion opens up the possibility of some confusion between the parties' online retail businesses. But that, it seems to me, is the inevitable consequence of the use by two separate entities of the same or closely similar names in relation to such similar businesses, namely the running of a show of consumer interest products and the publishing of a magazine all about such products. I am satisfied that the

provision of online retail services concerning such products was an entirely natural extension of the businesses of each of them. It was not, as Mr Abrahams characterised it, a major departure for Media 10. Indeed, Media 10 referred the deputy judge to mail order marketing carried out by its predecessor in title, the Daily Mail Group, in the early 1990s; to the introduction of a credit card in the mid 1990s; and to the updating of the Ideal Home Show website in 2008 to include an online shop, although it merely enabled the purchase of goods from third parties. Of course Media 10 must not take any steps to increase the level of confusion beyond that which is inevitable and so encroach onto IPC's goodwill. But the deputy judge was satisfied that it has not done so and in that regard it is notable that it uses for its services the name Ideal Home Show, just as it does in relation to its core business.

...

56. I therefore believe that this is one of those rare cases in which the use of the mark complained is indeed honest and that it has not had and will not have an adverse effect upon the essential function of the registered trade mark, and that is so because the guarantee of origin the mark provides is just the same as it has always been. The deputy judge referred to the trade mark as flawed. I prefer to say (as Sir Robin Jacob did) that the guarantee is different from that which it would have been had the mark only ever been used by a single entity.

57. ... I do not accept that the reasoning of the deputy judge leads directly and inevitably to the conclusion that each party may now start using the name Ideal Home in relation to the core activities of the other. That, it seems to me, would be an expansion of a different nature from that which the parties have undertaken in relation to retail services on the internet, and that is so because it would involve an encroachment into precisely the area of business in relation to which each has generated a goodwill over very many years. As such I believe it would involve the use of the name in a different context and might well result in the actionable deception of a significant number of

persons. However, it is not a matter before us and so I prefer to express no final conclusion upon it.

64. ...In 2006 online retail services was an area of business which, as the deputy judge explained, lay in or around the middle of the spectrum between the parties' respective core businesses and, as I have said, I am satisfied it was one into which each party might reasonably wish to expand. Further, neither could complain about the normal and fair use by the other of the mark Ideal Home in relation to such services. Of course it was possible that one party might use the mark in a context or manner such as to denote a connection with the other and so cause a greater degree of confusion than was the inevitable consequence of their use of the same name for very many years in relation to such closely related businesses. But that would not have been a normal or fair use of the mark."

8. The evidence is essentially the same as that considered by IPEC, and the IPEC trial was held in October and November 2013. The relevant dates in these proceedings, as far as the grounds under sections 5(1), 5(2) and 5(3) are concerned (and leaving aside the proof of use periods), are 3 February 2011, 2 September 2011, 1 October 2013, 19 December 2013 and 14 January 2014.

### **Concessions and submissions**

9. At the hearing, Show withdrew its opposition to *magazines* in Magazine's application number 3024322. I have reflected this in the specifications set out above in the pleadings section.

10. Show also withdrew *magazines* from its own applications 2571171 and 3035681 in class 16 and qualified some of the terms in classes 9 and 16, seeking to exclude magazines from the coverage of the goods specifications, as follows:

- A qualification to the terms "on-line electronic publications; electronic publications (downloadable)" in class 9 in each application to remove magazines to that the terms read "on-line electronic publications (not

including magazines); electronic publications (downloadable and not including magazines)” or words to the same effect which are acceptable to the IPO;

- An amendment to the start of the class 16 specification of 2571171 to “Paper, cardboard; goods made from paper not included in other classes and not including magazines; goods made from cardboard not included in other classes” or words to the same effect which are acceptable to the IPO;
- A qualification to “printed matter” in class 16 to read “printed matter (not including magazines)” or words to the same effect which are acceptable to the IPO.

11. Show also wished to limit its goods and services, as a fallback, in its two opposed applications (2571171 and 3035681) to ‘home interest goods and services’.

12. Magazine’s response to the class 9 and 16 ‘magazine’ specification amendments is that they do not go far enough, given the nature of Magazine’s core business.

13. Magazine withdrew its opposition to *organisation of exhibitions and shows*, in class 41, in Show’s application number 3035681 (IDEAL HOME). Save for this concession (which reflects the observations made by in the Court of Appeal judgment, at paragraph 8), Magazine opposes the registration by Show of the mark IDEAL HOME.

14. Magazine offered to limit *printed publications* in its application number 3024322, to *printed publications; but not including goods relating to home interest shows*. Show was content with this amendment, which means that this opposition falls away. Application number 3024322 may proceed to registration for *printed publications; but not including goods relating to home interest shows*.

15. Magazine offered, as a fallback, to limit its application 2593457 (class 36) to *insurance services, being home content and home buildings insurance; provision of*

*home insurance; information, consultancy and advisory services relating to all the aforesaid services.*

16. Magazine offered, as a fallback, to delete some of the goods and services covered by its application 3037747. I have set out the fallback position at paragraph 23 of this decision.

17. Both parties were content for the facts set out in the IPEC judgment to stand as evidence. Show's primary position is that the parties should co-exist in respect of home interest products and services and that the applications of both parties that contain such products and services should be allowed to proceed in respect of such goods and services. At the hearing, Mr Alkin said that Magazine largely agreed with this, with a caveat:

"I will preface my remarks by saying that in the light of my friend's skeleton that these oppositions can be disposed of on the basis of the section 5(4)(a) grounds and that it is not going to be strictly necessary to go to the specifications of the earlier marks in detail, the reason I say that is because my friend has said that their primary position is that both sides should be able to co-exist at least in the context of the HOME interest goods and services. We take the same view. Therefore, in the context of home interest goods and services, we make no objection save for in relation to our core business of magazines and vice-versa in relation to the organisation of shows. That is subject to one point. I think it is the position that neither side really maintains an objection to registration of the other side's marks within that area, save for within their core business areas. The one unique point that arises is this question of whether or not my friend's clients, M10, can use IDEAL HOME solus, that is to say, absent the word SHOW. That is a point of principle which I think and

hope can be decided on the basis of the section 5(4)(a) ground alone. In other words, you can have in mind the use we have made of IDEAL HOME in the real world, so to speak, rather than the goods and services for which we have a registration. You can consider, in the light of what is set out in the judgments whether or not the use by M10 of IDEAL HOME on its own would fall within the scale of the honest concurrent use defence.

18. In relation to Show's opposition to Magazine's applications and the fallback specifications provided by Magazine, Mr Krause pointed out that the opposed goods and services were identical to those covered by Show's earlier marks (subject to their registration in some cases), but he went on to say:

"I do not, otherwise, intend to take any point on the proposed specifications that have been put forward by TI in terms of the narrower specifications falling within the general terms, home interest goods and services. I accept that they do. So I will not raise any objection to those.

There is, though, the broader question, to the extent that the goods and services do not fall within the description of home interest goods and services, as to what the position is in light of the reputation of the IDEAL HOME name? I agree that the reputation of both the show and the magazine is so extensive that, even in relation to goods which are not home interest goods and services, members of the public would be caused to assume that those goods and services were in some way connected with either the show or the magazine."

### **Show's opposition to Magazine's application 2593457 IDEAL HOME**

19. 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.”

20. The following principles are gleaned from the decisions of the Court of Justice in the European Union (“CJEU”) 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;

(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.

21. As one of the bases of its opposition to this mark, Show relies on its earlier mark 2571171. This was, originally, opposed in full by Magazine; however, by way of a letter dated 5 February 2019, Magazine reduced the scope of its opposition. It no longer opposes Show's services in class 36 covered by 2571171. Show has cover for, amongst other services in class 36, 'insurance'. This is clearly identical to the services covered by Magazine's application: *Insurance services; provision of home insurance, pet insurance, travel insurance, car and motor insurance and information, consultancy and advisory services relating to all the aforesaid services*. The combination of identical services and closeness of the marks would usually result in a finding of a likelihood of confusion. Magazine has offered to limit its specification to *insurance services, being home content and home buildings insurance; provision of home insurance; information, consultancy and advisory services relating to all the aforesaid services*, intending to reflect the rationale of the court judgments. However, Magazine has not narrowed its specification unconditionally. It is a fallback position, assuming that Show's objection is valid. Normal priority rules must therefore apply, meaning a comparison of services needs to be undertaken. At the hearing, Mr Krause confirmed "I do not, otherwise, intend to take any point on the proposed specifications that have been put forward by TI in terms of the narrower specifications falling within the general terms, home interest goods and services. I accept that they do. So I will not raise any objection to those." Therefore, there is a likelihood of confusion on a notional basis with Show's insurance services, but as Show does not object to the fallback specification, Magazine's application 2593457 may proceed to registration for the limited specification *insurance services, being home content and home buildings insurance; provision of home insurance; information, consultancy and advisory services relating to all the aforesaid services*.

### **Show's opposition to Magazine's application 3024322 IDEAL HOME**

22. As stated earlier in this decision, Show withdrew its opposition to this application on the basis of Magazine's offer to limit its specification. Application number 3024322 may proceed to registration for *printed publications; but not including goods relating to home interest shows*.

## Show's opposition to Magazine's application 3037747 IDEAL HOME

23. Magazine provided, with Mr Alkin's skeleton argument, a fallback specification. Mr Krause's comments at the hearing, which I have reproduced above at paragraph 18, also covered this application. The fallback specification is reflected, below, with the goods and services pursued in normal type, the proposed limitations in bold, and the goods and services struck through which are not pursued:

Class 2: *Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, ~~printers and artists.~~*

Class 3: *Laundry preparations and substances; bleaching preparations and other substances for laundry use; dry cleaning preparations; cleaning, polishing, scouring and abrasive preparations **for household use**; ~~soaps~~; washing up liquid, surface leaning preparations.*

Class 4: *Candles and wicks for lighting.*

Class 8: *~~Hand tools and implements (hand-operated); cutlery; side arms; razors; hand implements for kitchen use; knives; can openers; scissors; disposable cutlery made of plastics; ~~pedicure sets; manicure sets; nail clippers~~; can and jar openers, fruit and vegetable peelers, pizza cutters, cheese planes, fruit corers, tongs, canapé forks and spreaders, spiral slicers and nut crackers; parts and fittings for all of the aforesaid goods.~~*

Class 11: *Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes; kitchen ranges; kitchen machines (gas, electric) for cooking; electrical apparatus for making or brewing beverages; toasters; coffee machines, coffee percolators; tea machines; water heaters; hair dryers; waffle irons; ovens and cookers; kettles; tumble dryers; fridges; freezers; combined fridges and freezers; fans and fan heaters; water purifiers; ionisers; microwave ovens; domestic fireplaces; electric blankets; air conditioning apparatus; air deodorising apparatus; water filters; water softening apparatus; lamps*

*and lampshades; light bulbs; ~~torches~~; roasters; bread makers; ice cream makers; Christmas tree lights; ~~gas lighters~~; barbecues; baths and bath fittings; sanitary ware; sinks and basins; shower cubicles; bathroom suites; bathroom fixtures and installations; showers; steam facial apparatus; sterilizers; solar water heaters; hot water bottles; humidifiers; parts and fittings for all the aforesaid goods.*

*Class 19: Buildings, residential dwellings, houses, apartments, prefabricated buildings, transportable buildings, sheds, structures of non-metallic materials, garages, gazebos, summer houses, conservatories, swimming pools; parts and fittings for all the aforesaid goods; building construction materials, **namely, bathroom and kitchen tiles, tile adhesive.***

*Class 28: Decorations and ornaments for Christmas trees; artificial Christmas trees; Christmas tree stands; Christmas decorations included in the class; ~~toys, games and playthings.~~*

*Class 37: Painting and decorating services; advisory and information services relating to painting and decorating including on-line from a computer database and/or the Internet.*

*~~Class 40: Photographic duplicating and printing services.~~*

*Class 41: Provision of radio and television programmes and entertainment services; preparation and production of television shows and television programs including cable television programs; television programming; hosting (organizing) awards; provision and conducting of educational courses; publishing; library and archive services; photography and photographic services; information and advisory services relating to all the aforesaid services; **all the aforesaid in the field of homes, home design, home decorating, home renovation, furniture, home furnishings, interior design, home interest goods and services.***

24. I bear in mind Mr Krause's suggestion that all of these goods and services can co-exist, even if they are not home interest goods and services, because of the fame of the parties' marks. I do not understand the rationale of the court judgments to go

that far. However, although the judgments were concerned with retail services of home interest products, I do think that the rationale extends to home interest products (whether goods or services) themselves. Both parties have taken this view. Although the courts have stated that retail of goods is not the same as mere sale of goods, it has also been stated that there can be a complementary relationship between retail services and goods, which is sometimes a close relationship<sup>10</sup>, along with shared trade channels.

25. That being the case, I need to look at the goods and services which Magazine has offered to limit and to delete. As before, Magazine has not narrowed its specification unconditionally, it is a fallback position, assuming that Show's objection is valid. Bearing in mind that Show's earlier mark 2571171 upon which it relies (amongst others) to oppose Magazine's application is now opposed only partially in classes 9, 16, 35 and 41, I will compare Show's goods with the goods and services which Magazine has offered to limit or to delete.

#### Class 2

*Metals in foil and powder form for printers and artists.* These are similar to Show's paints and colorants to a good degree. The purpose is to create an artistic effect using colour. They are likely to be sold in the same outlets and may be in competition with paints and colorants.

#### Class 3

*Cleaning, polishing, scouring and abrasive preparations; soaps.* These goods are listed in Show's class 3 specification. They are identical.

#### Class 8

*Hand tools and implements (hand-operated); side arms; razors; pedicure sets; manicure sets; nail clippers.* Show's class 8 specification lists *Hand tools and*

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<sup>10</sup> See, for example, *Oakley, Inc v OHIM*, Case T-116/06, General Court, and *Tony Van Gulck v Wasabi Frog Ltd* BL O/391/14, Mr Geoffrey Hobbs QC, sitting as the Appointed Person.

*implements (hand-operated); side arms; razors.* These goods are identical. Assuming that pedicure sets, manicure sets and nail clippers would not be perceived by average consumers as hand tools, and therefore not covered by Show's specification, I find that they are, nevertheless, similar to a medium degree to Show's retail of cosmetic utensils, for the reasons given above.

#### Class 11

*Torches; gas lighters.* Show has cover for apparatus for lighting and cooking in class 11, which covers Magazine's goods<sup>11</sup>.

#### Class 19

*Building construction materials.* Show has cover for building materials (non-metallic) in class 19. These goods are identical.

#### Class 28

*Toys, games and playthings.* Show's specification in class 28 lists games, playthings and toys. These goods are identical.

#### Class 40

*Photographic duplicating and printing services.* Show does not have cover for these services. It has cover for photographs in class 16 and photography services in class 41 (which is unopposed). There is a medium degree of similarity because the end result of photographic duplicating and printing services is photographs. The services of a photographer would result in the sale of photographs; for instance, a wedding photographer will often charge separately for the photographic service and the photographs themselves.

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<sup>11</sup> *Gérard Meric v OHIM*, Case T-33/05, General Court.

## Class 41

*Provision of radio and television programmes and entertainment services; preparation and production of television shows and television programs including cable television programs; television programming; hosting (organizing) awards; provision and conducting of educational courses; publishing; library and archive services; photography and photographic services; information and advisory services relating to all the aforesaid services.* Show's class 41 specification is unopposed in respect of entertainment, which is identical to Magazine's *Provision of radio and television programmes and entertainment services; preparation and production of television shows and television programs including cable television programs; television programming.* Show has cover for sporting and cultural activities, a wide term covering Magazine's *hosting (organizing) awards.* Show has cover for education, which is identical to Magazine's *provision and conducting of educational courses.* Show has cover for organisation of exhibitions for cultural or educational purposes, which is similar to Magazine's *library and archive services,* because museums and libraries often stage exhibitions about collections or exhibits which they house or curate. Show has photography services listed in its class 41 specification, which is identical to Magazine's *photography and photographic services.* Magazine's *information and advisory services relating to all the aforesaid services* stand or fall with those services. The only item over which there is a question is Magazine's *publishing* services. Magazine has opposed Show's earlier right in respect of publishing and publication services in class 41 (and related goods and services in classes 9, 16 and 35). I therefore need to determine the outcome of Magazine's opposition to Show's earlier marks 2571171 and 3035681 to decide what happens to Magazine's *publishing* services in its application 3037747. Show also relies on its earlier mark 2465468. There are no goods or services covered by that registration which are similar to *publishing.* It also relies on passing off rights in, amongst other goods and services, printed publications and publishing services. It is difficult to see how Show could succeed in that claim given what the courts have said about the parties' respective areas: publishing is Magazine's core business, not Show's.

26. As for the other goods and services which I have assessed, given the closeness of the parties' marks, there is a likelihood of confusion. Leaving aside *publishing* for the moment, in view of Mr Krause's acceptance of Magazine's fallback offer, Magazine's application 3037747 IDEAL HOME may proceed to registration only for the specification it proposed with its skeleton argument; i.e. with the deletions and limitations which I have reproduced above at paragraph 23.

### **Magazine's opposition to Show's application 2571171 IDEAL HOME SHOW**

27. Mr Alkin submitted that Magazine's two oppositions could be disposed of under section 5(4)(a) of the Act, which states:

"A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented –

(a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, or

(b)...

A person thus entitled to prevent the use of a trade mark is referred to in this Act as the proprietor of "an earlier right" in relation to the trade mark."

28. In *Discount Outlet v Feel Good UK*, [2017] EWHC 1400 IPEC, Her Honour Judge Melissa Clarke, sitting as a deputy Judge of the High Court, conveniently summarised the essential requirements of the law of passing off as follows:

"55. The elements necessary to reach a finding of passing off are the 'classical trinity' of that tort as described by Lord Oliver in the *Jif Lemon* case (*Reckitt & Colman Product v Borden* [1990] 1 WLR 491 HL, [1990] RPC 341, HL), namely goodwill or reputation; misrepresentation leading to deception or a likelihood of deception; and damage resulting from the misrepresentation. The burden is on the Claimants to satisfy me of all three limbs.



56 In relation to deception, the court must assess whether "*a substantial number*" of the Claimants' customers or potential customers are deceived, but it is not necessary to show that all or even most of them are deceived (per *Interflora Inc v Marks and Spencer Plc* [2012] EWCA Civ 1501, [2013] FSR 21)."

29. Magazine has narrowed its opposition and Show has limited its specifications, which I have reflected by way of strike-through and bold text. (In the alternative, Show requests some other form of wording which is acceptable to the IPO):

Class 9: *On-line electronic publications (not including magazines); electronic publications (downloadable and not including magazines).*

Class 16: *Goods made from cardboard and paper, not included in other classes and not including magazines; printed matter (not including magazines); brochures; magazines; newsletters; pamphlets.*

Class 35: *Retail and wholesale services, including via the Internet, mail order, electronic and printed publications, websites or other communication networks, connected with the sale of on-line electronic publications, electronic publications (downloadable), goods made from paper and cardboard, printed matter, brochures, magazines, newsletters, pamphlets, goods made of paper or cardboard, magazines, books, printed matter, publications.*

Class 41: *Publication of printed matter and printed publications; publishing and publication services; electronic publishing services; providing on-line publications (not downloadable); publication of electronic books and journals on-line; commissioned writing.*

30. In my previous decision (BL O/384/16), in which Magazine opposed Show's application for IDEAL HOME SHOW (2465468) for posters, brochures, calendars and diaries, I applied the court judgments and found that Magazine's opposition was successful in relation to brochures, save for brochures relating to home interest

goods and services. Magazine did not oppose Show's application in respect of show guides (for which it is now registered). I said (footnote omitted):

"57. This leaves *brochures*, which are identical to the earlier goods *printed publications*. IPEC and the Court of Appeal found that both parties were entitled to their respective trade marks in respect of their core businesses (magazines and shows) and for home interest online retail services, by natural extension of trade in their core businesses. Brochures showcasing (in a wide sense, as the deputy judge said in paragraph 58 of his judgment) home interest goods and services are likely to be found as inserts in Magazine's magazine and as part and parcel of Show's promotion and operation of its exhibitions/shows. If online retail services of home interest goods is a natural extension of the parties' core businesses, then I consider home interest goods and services brochures to be an even more natural extension of their core businesses. Consequently, insofar as Show's brochures relate to home interest goods and services, I would extend the logic of the Courts' findings. If Show limits *brochures* to *brochures relating to home interest goods and services* (such services covering the show itself as well as home interest services) the marks may co-exist because, per Kitchen LJ:

"...this is one of those rare cases in which the use of the mark complained of is indeed honest and that it has not had and will not have an adverse effect upon the essential function of the registered trade mark, and that is so because the guarantee of origin the mark provides is just the same as it has always been."

58. However, without a limit to the specification, identical goods would be in play for which there is no overlap of honest and concurrent use in terms of subject matter. Normal priority rules would apply (section 6 of the Act). **Without a specification limit, there is a likelihood of confusion** in relation to brochures at large, bearing in mind the closeness of the marks and the identity of the goods."

31. Magazine has said that the proposed limitations do not go far enough. I agree. Show's specifications, as they currently stand, encroach upon Magazine's core business area.

32. That being the case, and following the logic of the court decisions, I find that Magazine's section 5(4)(a) ground succeeds except for the following:

*Class 9: On-line and electronic brochures relating to home interest goods and services; on-line and electronic publications relating to home interest shows.*

*Class 16: Brochures relating to home interest goods and services; publications relating to home interest shows.*

*Class 35: Retail and wholesale of brochures relating to home interest goods and services; retail and wholesale of publications relating to home interest shows.*

*Class 41: Publication of brochures relating to home interest goods and services and of publications relating to home interest shows; providing on-line publications (not downloadable) of brochures relating to home interest goods and services and publications relating to home interest shows; publication of brochures relating to home interest goods and services and of publications relating to home interest shows on-line.*

33. The consequence of the survival of the above services in class 41 is that, notionally, Show's opposition to Magazine's *publishing* services in 3037747 would succeed. However, as stated earlier, what the parties have said about co-existence and the parties' respective areas, Magazine's *publishing* may remain in its specification for 3037747, with a limit of *but not including publishing services relating to home interest shows*. This adopts the formulation which Magazine proposed as a limitation to its specification in 3024322 (*printed publications; but not including goods relating to home interest shows*).

## Magazine's opposition to Show's application 3035681 IDEAL HOME

34. I have already commented that Magazine has withdrawn its opposition to Show's *organisation of exhibitions and shows*, in class 41. The basis of its objection to the rest of the application is that Show has, in seeking to register IDEAL HOME without the word SHOW, stepped outside of the honest concurrent use defence as explained in the court decisions. Mr Alkin said that Magazine objects to the change in the historic name which Show has used; i.e. IDEAL HOME SHOW, not IDEAL HOME. Magazine accepts that it cannot, following the court judgments, object to IDEAL HOME for shows, since the courts found that, in the context of shows, IDEAL HOME signifies Show. However, both judgments observed that the honest concurrent use position, or defence, might be disturbed if a party altered its *modus operandi*, so as to increase confusion. One example of that would be expansion into the other's core business area. Magazine submits that dropping SHOW, in relation to goods and services not directly related to shows, disturbs the basis for the honest concurrent use defence. In particular, Mr Alkin pointed to Kitchen LJ's observation that Show must not take any steps to increase the level of confusion beyond that which is inevitable and so encroach upon Magazine's goodwill.

35. I agree with Magazine that Show's application to register IDEAL HOME for home interest goods and services other than shows and exhibitions does encroach upon Magazine's goodwill. Show's application 3035681 is, therefore refused, in relation to home interest goods and services (apart from *organisation of exhibitions and shows*, in class 41) and in relation to goods and services which form Magazine's core business area.

36. Although there is already some degree of public confusion, dropping SHOW would cause some consumers who are not currently confused because they differentiate between IDEAL HOME and IDEAL HOME SHOW to become confused. It is well established that dropping a part of a mark that helps to distinguish two businesses can result in passing off; see *Sir Robert McAlpine Limited v Alfred McAlpine Plc* [2004] RPC 36 (HC). It is true that the word SHOW is descriptive of shows and its presence/omission is therefore not material in the context of services relating to shows. But SHOW is not descriptive of, for example, paint, so the

omission of this word makes some difference in the context of goods and services other than shows. In *Reed Executive plc v Reed Business Information Ltd* [2004] EWCA Civ 159, Jacob LJ refused to discount the distinguishing effect of “Business Information” because it was not entirely descriptive of the services:

“37. It was over “Reed Business Information” that battle was joined. The composite is not the same as, for example, use of the word “Reed” in the sentence: “Get business information from Reed”. In the latter case the only “trade-marky” bit would be “Reed”. In the former, the name as a whole is “Reed Business Information”. The use of capital letters is of some visual significance – it conveys to the average user that “Business Information” is part of the name. If the added words had been wholly and specifically descriptive – really adding nothing at all (eg “Palmolive Soap” compared to “Palmolive”) the position might have been different. But “Business Information” is not so descriptive – it is too general for that.”

37. SHOW is entirely descriptive of shows, but not of Show’s other goods and services. The omission of SHOW from the mark increases the confusion or deception (except for shows); it may not increase the likelihood of deception substantially, but it is sufficient that it increases the likelihood of deception amongst a substantial number of persons<sup>12</sup>.

38. The question is whether, on the basis of the court judgments, Magazine’s opposition should succeed in relation to goods and services which are not for home interest. My view is that it should not; Magazine is not able to prevent the use of IDEAL HOME in relation to goods and services which are clearly outside of this category, unless normal priority rules apply and one or more of its grounds succeeds against such goods and services. I have been through Show’s lengthy specifications and I have identified the following as falling outside of the description of home interest goods and services. The parties have taken a broad view of ‘home interest’. I will do likewise and I have also considered hobby and home improvement items to be included in the home interest description:

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<sup>12</sup> *Neutrogena Corporation and Another v Golden Limited and Another* [1996] RPC 473.

Class 2: *Mordants.*

Class 4: *Industrial oils and greases; dust absorbing, wetting and binding compositions.*

Class 6: *Materials of metal for railway tracks; ores.*

Class 7: *Machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs.*

Class 8: *Side arms.*

Class 9: *Nautical and life-saving apparatus and instruments; cash registers; credit cards; loyalty cards.*

Class 14: *Precious metals and their alloys.*

Class 16: *Credit cards; loyalty cards.*

Class 17: *Rubber, gutta-percha, gum, asbestos, mica; rubber, mica; plastics in extruded form for use in manufacture.*

Class 19: *Asphalt, pitch and bitumen.*

Class 35: *Advertising; advertising services and information services relating thereto; business management; business administration; business information services; careers advice; marketing; market research; office functions; organisation of exhibitions for commercial and advertising purposes; public relations services; publicity and promotional services; marketing support services, namely advertising services, provision, dissemination and updating of promotional materials, compilation of statistics; rental of publicity materials, marketing research and sales promotion for others; conducting of auctions; information on product availability, discounts and promotions; classified advertising services; advertising and promotional services for*

*the goods and services of others; rental of advertising space, dissemination of advertising matter; compilation of advertisements for use as web pages on the Internet; advertising mail order; presentation of goods on communication media, for retail purposes; sales promotions for others; rental of advertising space.*

Class 41: *Production of radio and television programmes and shows.*

Class 42: *Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; design, drawing and commissioned writing, all for the compilation of web pages on the Internet; syndicated writing concerning the Internet and on-line computer services; information services relating to the Internet; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or the Internet.*

39. As said earlier in this decision, Mr Alkin submitted that the matter could be decided under section 5(4)(a) on the basis of Magazine's acknowledged goodwill in IDEAL HOME. Magazine no longer opposes Show's *organisation of exhibitions and shows*. This also appears to me to cover Show's application for *production of shows; organisation of exhibitions for cultural or educational purposes; arranging of tickets for sporting, cultural and entertainment, events, concerts and shows; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or from the Internet*, which are evidently closely tied to Show's core business area. The application may proceed for these services.

40. In *Harrods Limited v Harrodian School Limited* [1996] RPC 697, Millet L.J. made the following findings about the lack of a requirement for the parties to operate in a common field of activity, and about the additional burden of establishing misrepresentation and damage when they do not:

"There is no requirement that the defendant should be carrying on a business which competes with that of the plaintiff or which would compete with any

natural extension of the plaintiff's business. The expression "common field of activity" was coined by *Wynn-Parry J. in McCulloch v. May* (1948) 65 R.P.C. 58, when he dismissed the plaintiff's claim for want of this factor. This was contrary to numerous previous authorities (see, for example, *Eastman Photographic Materials Co. Ltd. v. John Griffiths Cycle Corporation Ltd.* (1898) 15 R.P.C. 105 (cameras and bicycles); *Walter v. Ashton* [1902] 2 Ch. 282 (The Times newspaper and bicycles) and is now discredited. In the *Advocaat case Lord Diplock* expressly recognised that an action for passing off would lie although "the plaintiff and the defendant were not competing traders in the same line of business". In the *Lego case Falconer J.* acted on evidence that the public had been deceived into thinking that the plaintiffs, who were manufacturers of plastic toy construction kits, had diversified into the manufacture of plastic irrigation equipment for the domestic garden. What the plaintiff in an action for passing off must prove is not the existence of a common field of activity but likely confusion among the common customers of the parties.

The absence of a common field of activity, therefore, is not fatal; but it is not irrelevant either. In deciding whether there is a likelihood of confusion, it is an important and highly relevant consideration

'...whether there is any kind of association, or could be in the minds of the public any kind of association, between the field of activities of the plaintiff and the field of activities of the defendant':

*Annabel's (Berkeley Square) Ltd. v. G. Schock (trading as Annabel's Escort Agency)* [1972] R.P.C. 838 at page 844 per Russell L.J.

In the *Lego case Falconer J.* likewise held that the proximity of the defendant's field of activity to that of the plaintiff was a factor to be taken into account when deciding whether the defendant's conduct would cause the necessary confusion.



Where the plaintiff's business name is a household name the degree of overlap between the fields of activity of the parties' respective businesses may often be a less important consideration in assessing whether there is likely to be confusion, but in my opinion it is always a relevant factor to be taken into account.

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

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

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

‘...in a case such as the present the burden of satisfying Lord Diplock's requirements in the *Advocaat* case, in particular the fourth and fifth requirements, is a heavy burden; how heavy I am not sure the judge fully appreciated. If he had, he might not have granted the respondents relief. When the alleged “passer off” seeks and gets no benefit from using another trader's name and trades in a field far removed from competing with him, there must, in my judgment, be clear and cogent proof of actual or possible confusion or connection, and of actual damage or real likelihood of damage to the respondents' property in

their goodwill, which must, as Lord Fraser said in the *Advocaat* case, be substantial.’ ”

41. Like Lego, Magazine’s sign IDEAL HOME is a household name and has been so for nearly a century. Without the context of SHOW, I find that a substantial part of Magazine’s customers will assume that the goods and services are in some way connected to or under the auspices of Magazine. IDEAL HOME is so famous that, like *Lego*, lack of similarity between fields of activity matters less. In relation to the advertising and marketing services, these are, in fact, not so far away from Magazine’s core business area of publishing magazines, which include advertisements for third parties.

42. Show’s application 3035681 IDEAL HOME is refused except in relation to *production of shows; organisation of exhibitions and shows; organisation of exhibitions for cultural or educational purposes; arranging of tickets for sporting, cultural and entertainment, events, concerts and shows; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or from the Internet*, for which it may proceed to registration. A further consequence is that Show’s opposition to *publishing* in Magazine’s application 3037747 fails insofar as it is based upon 3035681.

## **Outcome**

43. The overall outcome is as follows:

(i) Magazine’s application 2593457 IDEAL HOME

This application may proceed to registration in class 36 for *insurance services, being home content and home buildings insurance; provision of home insurance; information, consultancy and advisory services relating to all the aforesaid services.*

(ii) Magazine's application 3024322 IDEAL HOME

This application may proceed to registration in class 16 for *printed publications; but not including goods relating to home interest shows.*

(iii) Magazine's application 3037747 IDEAL HOME

This application may proceed to registration as follows:

Class 2: *Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators.*

Class 3: *Laundry preparations and substances; bleaching preparations and other substances for laundry use; dry cleaning preparations; cleaning, polishing, scouring and abrasive preparations for household use; washing up liquid, surface leaning preparations.*

Class 4: *Candles and wicks for lighting.*

Class 8: *Cutlery; hand implements for kitchen use; knives; can openers; scissors; disposable cutlery made of plastics; can and jar openers, fruit and vegetable peelers, pizza cutters, cheese planes, fruit corers, tongs, canapé forks and spreaders, spiral slicers and nut crackers; parts and fittings for all of the aforesaid goods.*

Class 11: *Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes; kitchen ranges; kitchen machines (gas, electric) for cooking; electrical apparatus for making or brewing beverages; toasters; coffee machines, coffee percolators; tea machines; water heaters; hair dryers; waffle irons; ovens and cookers; kettles; tumble dryers; fridges; freezers; combined fridges and freezers; fans and fan heaters; water purifiers; ionisers; microwave ovens; domestic fireplaces; electric blankets; air conditioning apparatus; air deodorising apparatus; water filters; water softening apparatus; lamps and lampshades; light bulbs; roasters; bread makers; ice cream makers; Christmas*

*tree lights; barbecues; baths and bath fittings; sanitary ware; sinks and basins; shower cubicles; bathroom suites; bathroom fixtures and installations; showers; steam facial apparatus; sterilizers; solar water heaters; hot water bottles; humidifiers; parts and fittings for all the aforesaid goods.*

*Class 19: Buildings, residential dwellings, houses, apartments, prefabricated buildings, transportable buildings, sheds, structures of non-metallic materials, garages, gazebos, summer houses, conservatories, swimming pools; parts and fittings for all the aforesaid goods; building construction materials, namely, bathroom and kitchen tiles, tile adhesive.*

*Class 28: Decorations and ornaments for Christmas trees; artificial Christmas trees; Christmas tree stands; Christmas decorations included in the class.*

*Class 37: Painting and decorating services; advisory and information services relating to painting and decorating including on-line from a computer database and/or the Internet.*

*Class 41: Provision of radio and television programmes and entertainment services; preparation and production of television shows and television programs including cable television programs; television programming; hosting (organizing) awards; provision and conducting of educational courses; publishing; library and archive services; photography and photographic services; information and advisory services relating to all the aforesaid services; all the aforesaid in the field of homes, home design, home decorating, home renovation, furniture, home furnishings, interior design, home interest goods and services; publishing, but not including publishing services relating to home interest shows.*

(iv) Show's application 2571171 IDEAL HOME SHOW

This application may proceed to registration as follows:

Class 2: *Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; adhesives for wallpaper and wall tiles; wall paper removing preparations; solvents for paints, varnishes and lacquers.*

Class 3: *Bleaching preparations and other substances for laundry use; dry cleaning preparations; cleaning, polishing, scouring and abrasive preparations; incense; flavourings for food and beverages; soaps; perfumery, essential oils, toiletries; cosmetics; hair lotions; shampoo and hair conditioner; shaving preparations; cleansing preparations; bath and shower preparations; body creams, lotions and milks; deodorants and anti-perspirants; dentifrices; babies' bath preparations; baby oil; babies' creams, lotions and milks; baby shampoo and conditioner; toiletries for pets, namely shampoos, soaps and grooming preparations.*

Class 4: *Lubricants; fuels (including motor spirit) and illuminants; candles and wicks for lighting; firelighters.*

Class 6: *Transportable buildings of metal; prefabricated houses [kits] of metal; ironmongery, small items of metal hardware; furniture casters, window fasteners; pipes and tubes of metal; air conditioning installations; fittings of metal for buildings and furniture; pipes and tiles (of metal); chimneys; safes; keys and padlocks; letter boxes of metal; all-purpose boxes of common metal, statues, busts and works of art of common metal; goods of common metal not included in other classes; parts and fittings for all of the aforesaid goods; all other goods in this class.*

Class 7: *Washing machines, ironing machines, sewing machines; cutting, finishing, painting and woodworking machines; lawnmowers (machines); raking machines; machine tools; hand-held tools, other than hand-operated; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; dishwashers; washing and drying machines; waste disposals; electric cleaning apparatus and machines; coffee grinders; can openers (electric); food preparation machines; beverage preparation machines; food processors; extractor fans; stair lifts; parts and fittings for all of the aforesaid goods.*

*Class 8: Hand tools and implements (hand-operated); cutlery; razors; parts and fittings for all of the aforesaid goods.*

*Class 9: Cinematographic, optical, weighing, measuring, signalling, checking (supervisions), life-saving and teaching apparatus and instruments for transforming electricity; adapters; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; calculating machines, data processing equipment and computers; fire extinguishing apparatus; fire alarms; domestic security apparatus and equipment; spirit levels; circuit breakers; credit cards; loyalty cards; on-line and electronic brochures relating to home interest goods and services; on-line and electronic publications relating to home interest shows; CDs; CD-ROMs; DVDs; optical disc storage media and other media storage devices; pre-recorded video tapes and cassettes; digital photo frames; digital weather stations; barometers; electronic games; computer hardware and software; computer software and hardware to enable searching of data and connections to databases and the Internet; telephones; mobile phones; answering machines; remote control apparatus; camcorders; cassette recorders; television and video apparatus; stereos; clocks; radios; scales; eyeglass cases; protective clothing, footwear and headgear; parts and fittings for all of the aforesaid goods.*

*Class 11: Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes; parts and fittings for all of the aforesaid goods.*

*Class 12: Vehicles; apparatus for locomotion by land, air or water; cars; boats; caravans and campers; trailers; motor homes; motorcycles; bicycles; tricycles; trolleys; baby carriages, buggies and strollers; prams; canopies and hoods for prams and baby strollers; safety seats for babies for use in vehicles; parts, fittings, components and accessories for all the aforesaid goods.*

*Class 14: Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and*

*chronometric instruments; jewellery boxes and cases; parts and fittings for all of the aforesaid goods.*

*Class 16: Brochures relating to home interest goods and services; publications relating to home interest shows; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks; show guides; posters; calendars; diaries; credit cards; loyalty cards; loose leaf sheets for albums; manuals; greeting cards; announcement cards; invitations and envelopes; reply cards and envelopes; thank-you cards and notes; table place cards; wedding books; guest books; document files, scrapbooks; table decorations; table linen of paper; cake decorations; hat boxes; letter trays; paintings (framed or unframed); photographs; photograph albums; blackboards; writing and drawing instruments and materials; modeling materials; paperweights; gift wrap; wrapping and packaging materials; discount coupons; vouchers of value; paper bags, envelopes and containers for packaging, maps; statues, figurines and works of art of paper or cardboard, such as figurines of papier mache, parts and fittings for all the aforesaid goods.*

*Class 17: Goods made from rubber and mica and not included in other classes; draught excluder strips; packing, stopping and insulating materials; flexible pipes, not of metal.*

*Class 18: Goods made of leather and imitation leather and not included in other classes; animal skins, hides; trunks and travelling bags; luggage; garment bags for travel; wheeled shopping bags; umbrellas, parasols and walking sticks; walking stick seats; hat boxes; vanity cases; briefcases; key cases; card cases; purses and wallets; handbags; rucksacks; school bags; sports bags; suitcases; furniture coverings of leather; whips, harness and saddlery; clothing for pets; animal cloths and covers; collars, leashes, leads, muzzles, halters, bits and harnesses for pets; saddle covers and cloths; horseshoes; stirrups; reins; straps; towels; blankets and rugs for pets; feedbags; parts, fittings and accessories for all of the aforesaid goods.*

Class 19: *Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; prefabricated houses [kits], not of metal; monuments, not of metal; statuettes of stone, concrete or marble; works of art of stone, concrete or marble; mantelpieces; doors, door frames and door panels (not of metal); partitions, not of metal; windows; wooden floor boards; wood paving, wood panelling; jalousies, not of metal; staircases; latticework; conservatories (not of metal); huts; garden rooms (not of metal); porches; greenhouses (not of metal); fences (not of metal); shingle; gutters, posts and pipes (not of metal); palisading (not of metal); paving slabs; panels; plaster; flooring; floors and floor tiles (not of metal); wall tiles, not of metal; mouldings for cornices, not of metal; ceilings, not of metal; roofing; pools and ponds; insect screens, not of metal; trellises, not of metal; outdoor blinds, not of metal and not of textile; swimming pools [structures], not of metal; tree houses; bird baths (not of metal); perches; parts and fittings for all the aforesaid goods.*

Class 20: *Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics; easy chairs; chairs (seats); beds; mattresses; pillows and cushions; tables; desks; sofas; stools; statues; office furniture; fixtures and fittings for carpets and curtains; fixtures and fittings for doors and windows; safety latches, not of metal; door stoppers, not of metal; doors for furniture; cupboards and cabinets; shelves; baskets; bottle racks; magazine racks; picture frames; coat stands; playpens and walkers for babies; cribs; highchairs; bassinets; booster seats; infant bouncers; infant walkers; cradles and baby rockers; changing tables; baby chairs and bolsters; baby sleeping bags and bed linen; baby support pillows; coat hangers; furniture for pets; hutches, kennels, houses and carriers for pets; beds for pets; nesting boxes; grooming tables; playhouses for pets; parts and fittings for all the aforesaid goods; all other goods in this class.*

Class 21: *Household or kitchen utensils and containers; cooking utensils, non-electric; combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steel wool; unworked or semi-worked*



*glass (except glass used in building); glassware, porcelain and earthenware not included in other classes and goods made of these materials; decorative and ornamental objects of porcelain, ceramic, earthenware, glass and china; candlesticks; cosmetic utensils; ironing boards; baby baths and potties; brushes for animals; cages for animals; containers for pet foods; feeding dishes and bowls for pets; trays; containers for dispensing drinks to animals; id tags for pets; scoops for the disposal of pet waste; litter boxes and trays; window boxes; watering cans; dustbins; parts and fittings for all the aforesaid goods.*

*Class 22: Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials; bedding; hammocks; rope ladders; outdoor blinds of textile.*

*Class 24: Textiles and textile goods, not included in other classes; substitutes for textiles; household linen; bed and table covers and linen; mattress covers; sleeping bags; blankets for pets; towels; wall hangings of textile; curtains; cushion covers.*

*Class 25: Clothing, footwear, headgear; babies' clothes; children's clothes; maternity wear; beachwear; swimwear; lingerie; sleepwear; sportswear; formal wear.*

*Class 27: Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile); wallpaper; artificial turf.*

*Class 28: Games and playthings; toys and dolls; doll houses; doll house furniture; doll clothes; video game apparatus; electronic amusement apparatus incorporating a liquid crystal display; gymnastic and sporting articles not included in other classes; decorations for Christmas trees; confetti; activity toys for babies; rattles; swings and exercisers for babies and infants; dolls and playthings for babies and toddlers; toys and playthings for animals and domestic pets; parts and fittings for all the aforesaid goods.*

*Class 35: Advertising; advertising services and information services relating thereto; business management; business administration; business information*

services; careers advice; marketing; market research; office functions; organisation of exhibitions for commercial, trade and advertising purposes; organization of trade fairs for commercial or advertising purposes; organisation of fashion shows for commercial and promotional purposes; public relations services; publicity and promotional services; marketing support services, namely advertising services, provision, dissemination and updating of promotional materials, compilation of statistics; rental of publicity materials, marketing research and sales promotion for others; conducting of auctions; information on product availability, discounts and promotions; classified advertising services; advertising and promotional services for the goods and services of others; rental of advertising space, dissemination of advertising matter; compilation of advertisements for use as web pages on the Internet; advertising mail order; presentation of goods on communication media, or retail purposes; sales promotions for others; rental of advertising space; retail and wholesale services, including via the Internet, mail order, electronic and printed publications, websites or other communication networks, connected with the sale of paints, varnishes, lacquers, preservatives against rust and against deterioration of wood, colorants, mordants, adhesives for wallpaper and wall tiles, wallpaper removing preparations, solvents for paints, varnishes and lacquers, bleaching preparations and other substances for laundry use, dry cleaning preparations, cleaning, polishing, scouring and abrasive preparations, incense, flavourings for food and beverages, soaps, perfumery, essential oils, toiletries, cosmetics, hair lotions, shampoo and hair conditioner, shaving preparations, cleansing preparations, bath and shower preparations, body creams, lotions and milks, deodorants and anti-perspirants, dentifrices, babies' bath preparations, baby oil, babies' creams, lotions and milks, baby shampoo and conditioner, toiletries for pets, namely shampoos, soaps and grooming preparations, lubricants, fuels (including motor spirit) and illuminants, candles and wicks for lighting, firelighters, transportable buildings of metal, prefabricated houses [kits] of metal, ironmongery, small items of metal hardware, furniture casters, window fasteners, pipes and tubes of metal, air conditioning installations, fittings of metal for buildings and furniture, pipes and tiles (of metal), chimneys, safes, keys and padlocks, letter boxes of metal, all-purpose boxes of common metal, statues, busts and works of art of common metal,

*goods of common metal, machines and machine tools, hand-held tools, other than hand-operated, motors and engines (except for land vehicles), machine coupling and transmission components (except for land vehicles), agricultural implements other than hand-operated dishwashers, washing and drying machines, waste disposals, electric cleaning apparatus and machines, coffee grinders, can openers (electric), food preparation machines, beverage preparation machines, food processors, extractor fans, stair lifts, hand tools and implements (hand-operated), cutlery, razors, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments, apparatus and instruments for transforming electricity, adapters, apparatus for recording, transmission or reproduction of sound or images, magnetic data carriers, recording discs, calculating machines, data processing equipment and computers, fire-extinguishing apparatus, fire alarms, domestic security apparatus and equipment, spirit levels, circuit breakers, credit cards, loyalty cards, CDs, CD-ROMs, DVDs, optical disc storage media and other media storage devices, pre-recorded video tapes and cassettes, digital photo frames, digital weather stations, barometers, electronic games, computer hardware and software, computer software and hardware to enable searching of data and connection to databases and the Internet, telephones, mobile phones, answering machines, remote control apparatus, camcorders, cassette recorders, television and video apparatus, stereos, clocks, radios, scales, eyeglass cases, protective clothing, footwear and headgear, apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes, vehicles, apparatus for locomotion by land, air or water, cars, boats, caravans and campers, trailers, motor homes, motorcycles, bicycles, tricycles, trolleys, baby carriages, buggies and strollers, prams, canopies and hoods for prams and baby strollers, safety seats for babies for use in vehicles, parts, fittings, precious metals and their alloys and goods in precious metals or coated therewith, jewellery, precious stones, horological and chronometric instruments, jewellery boxes and cases, paper, cardboard, brochures relating to home interest goods and services, publications relating to home interest shows, bookbinding material, photographs, stationery, adhesives for stationery or household purposes, artists' materials, paint brushes, typewriters and office requisites (except furniture), instructional and teaching material (except apparatus),*

*plastic materials for packaging, printers' type, printing blocks, show guides, posters, calendars, diaries, credit cards, loyalty cards, loose leaf sheets for albums, manuals, greeting cards, announcement cards, invitations and envelopes, reply cards and envelopes, thank-you cards and notes, table place cards, wedding books, guest books, document files, scrapbooks, table decorations, table linen of paper, cake decorations, hat boxes, letter trays, paintings (framed or unframed), photographs, photograph albums, blackboards, writing and drawing instruments and materials, modelling materials, paperweights, gift wrap, wrapping and packaging materials, discount coupons, vouchers of value, paper bags, envelopes and containers for packaging, maps, statues, figurines and works of art of paper or cardboard, such as figurines of papier mache, goods made from rubber and mica, draught excluder strips, packing, stopping and insulating materials, flexible pipes, not of metal, goods made of leather and imitation leather, animal skins, hides, trunks and travelling bags, luggage, garment bags for travel, wheeled shopping bags, umbrellas, parasols and walking sticks, walking stick seats, hat boxes, vanity cases, briefcases, key cases, card cases, purses and wallets, handbags, rucksacks, school bags, sports bags, suitcases, furniture coverings of leather, whips, harness and saddlery, clothing for pets, animal cloths and covers, collars, leashes, leads, muzzles, halters, bits and harnesses for pets, saddle covers and cloths, horseshoes, stirrups, reins, straps, towels, blankets and rugs for pets, feedbags, building materials (non-metallic), non-metallic rigid pipes for building, asphalt, pitch and bitumen, non-metallic transportable buildings, prefabricated houses [kits], not of metal, monuments, not of metal, statuettes of stone, concrete or marble, works of art of stone, concrete or marble, mantelpieces, doors, door frames and door panels (not of metal), partitions, not of metal, windows, wooden floor boards, wood paving, wood panelling, jalousies, not of metal, staircases, latticework, conservatories (not of metal), huts, garden rooms (not of metal), porches, greenhouses (not of metal), fences (not of metal), shingle, gutters, posts and pipes (not of metal), palisading (not of metal), paving slabs, panels, plaster, flooring, floors and floor tiles (not of metal), wall tiles, not of metal, mouldings for cornices, not of metal, ceilings, not of metal, roofing, pools and ponds, insect screens, not of metal, trellises, not of metal, outdoor blinds (not of metal and not of textile), swimming pools [structures], not of*

*metal, tree houses, bird baths (not of metal), perches, furniture, mirrors, picture frames, goods of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics, easy chairs, chairs (seats), beds, mattresses, pillows and cushions, tables, desks, sofas, stools, statues, office furniture, fixtures and fittings for carpets and curtains, fixtures and fittings for doors and windows, indoor blinds and shades, safety latches, not of metal, door stoppers (not of metal), doors for furniture, bolts, screws, dowels, furniture casters, collars for fastening pipes and other small items of non-metallic hardware, house numbers, not of metal (non-luminous), cupboards and cabinets, shelves, baskets, bottle racks, magazine racks, picture frames, mobiles, coat stands, umbrella stands, non-metallic letter boxes, work benches, garden furniture, camping furniture, inflatable furniture, containers (not of metal) for storage and transport, playpens and walkers for babies, cribs, highchairs, bassinets, booster seats, infant bouncers, infant walkers, cradles and baby rockers, changing tables, baby chairs and bolsters, baby sleeping bags and bed linen, baby support pillows, coat hangers, furniture for pets, hutches, kennels, houses and carriers for pets, beds for pets, nesting boxes, grooming tables, playhouses for pets, household or kitchen utensils and containers, cooking utensils, non-electric, combs and sponges, brushes (except paint brushes), brush-making materials, articles for cleaning purposes, steel wool, unworked or semi-worked glass (except glass used in building), glassware, porcelain and earthenware and goods made of these materials, decorative and ornamental objects of porcelain, ceramic, earthenware, glass and china, candlesticks, cosmetic utensils, ironing boards, baby baths and potties, brushes for animals, cages for animals, containers for pet foods, feeding dishes and bowls for pets, trays, containers for dispensing drinks to animals, id tags for pets, scoops for the disposal of pet waste, litter boxes and trays, window boxes, watering cans, dustbins, ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags, padding and stuffing materials (except of rubber or plastics), raw fibrous textile materials, bedding, hammocks, rope ladders, outdoor blinds of textile, textiles and textile goods, substitutes for textiles, household linen, bed and table covers and linen, mattress covers, sleeping bags, blankets for pets, towels, wall hangings of textile, curtains, cushion covers, clothing, footwear,*

headgear, babies' clothes, children's clothes, maternity wear, beachwear, swimwear, lingerie, sleepwear, sportswear, formal wear, carpets, rugs, mats and matting, linoleum and other materials for covering existing floors, wall hangings (non-textile), wallpaper, artificial turf, games and playthings, toys and dolls, doll houses, doll house furniture, doll clothes, video game apparatus, electronic amusement apparatus incorporating a liquid crystal display, gymnastic and sporting articles, decorations for Christmas trees, confetti, activity toys for babies, rattles, swings and exercisers for babies and infants, dolls and playthings for babies and toddlers, toys and playthings for animals and domestic pets, parts and fittings for all the aforesaid foods, agricultural, horticultural and forestry products and grains, natural and artificial plants and flowers, animal food and supplements, animal litter, pet care products, foodstuffs, alcoholic, low-alcohol and non-alcoholic beverages, diabetic and medicated foodstuffs, healthcare and medicinal products, vitamins minerals and supplements, beauty products, cosmetics, toiletries, perfumery, jewellery, clocks, watches, lamps and lighting, bed linen, cushions, curtains, carpets, mats, matting, textiles, furnishings, fixtures and fittings for the home, table linen, furniture, haberdashery, home accessories, glassware and dinnerware, household containers and utensils, kitchenware, ornaments, greeting cards, stationery, novelties, festive decorations, bags, luggage, leather goods, imitation leather goods, clothing, footwear, headwear, hair and fashion accessories, sunglasses and spectacles, cameras, photographic equipment, CDs, DVDs, optical disc storage media, computer software and hardware, computer equipment and accessories, electronic games, apparatus for recording, transmission or reproduction of sound or images, domestic electrical and electronic equipment, optical goods, machines for household use, white goods, domestic security apparatus and devices, garden furniture and accessories, gardening equipment, garden ornaments and statues, ponds and pools, building materials, hand tools, power tools, painting and decorating equipment, cleaning products and equipment, vehicles and bicycles, walking aids, toys, games and playthings, gymnastic and sporting articles and equipment, oils and fuels, fireworks, tobacco products, components, parts, fittings and accessories for all of the aforesaid goods; loyalty scheme services; loyalty, incentive and bonus

*program services; demonstration of goods; presentation of goods on communication media, for retail purposes; sales promotion for others; price comparison services; subscriptions services; provision of commercial information; providing an online commercial information directory on the Internet; market studies and analysis; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or from the Internet.*

*Class 36: Insurance; financial affairs; monetary affairs; investment services; real estate affairs; financial appraisal; financing services; issuance of credit cards; financial sponsorship; issue of tokens, coupons and vouchers of value; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or the Internet.*

*Class 37: Building construction; repair; installation services; cleaning services; painting and decorating services; building maintenance services; installation of security and safety equipment; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or the Internet.*

*Class 38: Telecommunications; telecommunication of information (including web pages), computer programs and any other data; electronic mail services; provision of telecommunications access and links to computer databases and the Internet; provision of web pages; telecommunication services provided in relation to the Internet; telephone rental services; provision and rental of telephone chat lines; electronic bulletin board services; instant messaging services; voicemail services; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database or from the Internet.*

*Class 39: Transport; packaging and storage of goods; delivery of goods; removal services; travel services; travel arrangements; vehicle hire; information, advisory and*

*consultancy services related to all the aforesaid services; all the aforesaid services also provided on-line from a computer database or from the Internet.*

*Class 41: Education; providing of training; entertainment; sporting and cultural activities; organisation of exhibitions for cultural or educational purposes; instructional services; organisation of parties and celebrations; photography services; organisation of exhibitions and shows; organisation of live demonstrations; organisation of workshops for educational purposes; organisation of live shows featuring celebrity appearances; organisation of shows and exhibitions featuring show homes, room sets and show gardens; organisation of competitions, quizzes, games and recreational and cultural facilities; organisation of fashion shows; electronic games services provided by means of the Internet or telecommunications; game services provided on-line; Internet games (non-downloadable); provision of games by means of a computer based system; amusement services; production of shows; production of radio and television programmes and shows; publication of brochures relating to home interest goods and services and of publications relating to home interest shows; providing on-line publications (not downloadable) of brochures relating to home interest goods and services and publications relating to home interest shows; publication of brochures relating to home interest goods and services and of publications relating to home interest shows on-line; booking services; arranging of tickets for sporting, cultural and entertainment, events, concerts and shows; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or from the Internet.*

*Class 42: Technological services and research and design relating thereto; architectural services; interior design; industrial research; design and development of computer hardware and software; design, drawing and commissioned writing, all for the compilation of web pages on the Internet; software as a service; platform as a service; information services relating to the Internet; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or the Internet.*



(v) Show's application 3035681 IDEAL HOME

This application may proceed to registration in class 41 for *production of shows; organisation of exhibitions and shows; organisation of exhibitions for cultural or educational purposes; arranging of tickets for sporting, cultural and entertainment, events, concerts and shows; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or from the Internet.*

### **Costs**

44. Mr Alkin submitted that Show has run its case unhelpfully by inadequate particularisation of its grounds and made a provisional request for off-scale costs. Whilst I understand the point, it does not seem to me that Show's conduct should warrant an off-scale award. Both parties' cases involved marks with large specifications and the nature of the grounds and the impact of the court judgments created a snakes and ladders situation. It is regrettable that the parties could not successfully mediate or negotiate following the court judgments and that the matter continued for several more years prior to the hearing in these consolidated proceedings. As I noted at the end of the hearing, the original hearing was postponed because both parties were attempting to settle. Unfortunately, settlement was not achieved despite, as was evident at the hearing, the parties being in agreement over so much. Weighing up the various limitations, deletions, withdrawals of opposition and successes, the parties have achieved a roughly equal measure of success. Each side, therefore, is to bear its own costs.

**24 September 2019**

**Judi Pike**

**For the Registrar,**

**the Comptroller-General**

## **Annex**

### **(i) Show's registration number 2465468 IDEAL HOME SHOW**

Class 9: Credit cards; loyalty cards.

Class 16: Show guides; posters; calendars; diaries; credit cards; loyalty cards.

Class 35: Advertising services and information services relating thereto; all the aforesaid services also provided on-line from a computer database or from the Internet; business information services; all the aforesaid services also provided on-line from a computer database or from the Internet; public relations services; organisation of exhibitions for commercial and advertising purposes; business information services; business information services provided on-line from a computer database or from the Internet.

Class 38: Telecommunication of information (including web pages), computer programs and any other data; electronic mail services; provision of telecommunications access and links to computer databases and the Internet; telecommunication services provided in relation to the Internet; telephone rental services; provision and rental of telephone chat lines; information services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database or from the Internet; provision of web pages.

Class 41: Organisation of exhibitions for cultural or educational services; provision of information relating to education and entertainment; the aforesaid also provided on-line from a computer database or from the Internet; organisation of competitions and quizzes; the aforesaid services also provided on-line from a computer database and/or from the Internet.

Class 42: Design, drawing and commissioned writing, all for the compilation of web pages on the Internet; syndicated writing concerning the Internet and on-line computer services; none relating to magazines or the publication of magazines on

the Internet; information services relating to the Internet; none relating to magazines or the publication of magazines on the Internet.

**(ii) Show's application 2571171 IDEAL HOME SHOW**

Class 2: Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; adhesives for wallpaper and wall tiles; wall paper removing preparations; solvents for paints, varnishes and lacquers.

Class 3: Bleaching preparations and other substances for laundry use; dry cleaning preparations; cleaning, polishing, scouring and abrasive preparations; incense; flavourings for food and beverages; soaps; perfumery, essential oils, toiletries; cosmetics; hair lotions; shampoo and hair conditioner; shaving preparations; cleansing preparations; bath and shower preparations; body creams, lotions and milks; deodorants and anti-perspirants; dentifrices; babies' bath preparations; baby oil; babies' creams, lotions and milks; baby shampoo and conditioner; toiletries for pets, namely shampoos, soaps and grooming preparations.

Class 4: Lubricants; fuels (including motor spirit) and illuminants; candles and wicks for lighting; firelighters.

Class 6: Transportable buildings of metal; prefabricated houses [kits] of metal; ironmongery, small items of metal hardware; furniture casters, window fasteners; pipes and tubes of metal; air conditioning installations; fittings of metal for buildings and furniture; pipes and tiles (of metal); chimneys; safes; keys and padlocks; letter boxes of metal; all-purpose boxes of common metal, statues, busts and works of art of common metal; goods of common metal not included in other classes; parts and fittings for all of the aforesaid goods; all other goods in this class.

Class 7: Washing machines, ironing machines, sewing machines; cutting, finishing, painting and woodworking machines; lawnmowers (machines); raking machines; machine tools; hand-held tools, other than hand-operated; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; dishwashers;

washing and drying machines; waste disposals; electric cleaning apparatus and machines; coffee grinders; can openers (electric); food preparation machines; beverage preparation machines; food processors; extractor fans; stair lifts; parts and fittings for all of the aforesaid goods.

Class 8: Hand tools and implements (hand-operated); cutlery; razors; parts and fittings for all of the aforesaid goods.

Class 9: Cinematographic, optical, weighing, measuring, signalling, checking (supervisions), life-saving and teaching apparatus and instruments for transforming electricity; adapters; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; calculating machines, data processing equipment and computers; fire extinguishing apparatus; fire alarms; domestic security apparatus and equipment; spirit levels; circuit breakers; credit cards; loyalty cards; on-line electronic publications; electronic publications (downloadable); CDs; CD-ROMs; DVDs; optical disc storage media and other media storage devices; pre-recorded video tapes and cassettes; digital photo frames; digital weather stations; barometers; electronic games; computer hardware and software; computer software and hardware to enable searching of data and connections to databases and the Internet; telephones; mobile phones; answering machines; remote control apparatus; camcorders; cassette recorders; television and video apparatus; stereos; clocks; radios; scales; eyeglass cases; protective clothing, footwear and headgear; parts and fittings for all of the aforesaid goods.

Class 11: Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes; parts and fittings for all of the aforesaid goods.

Class 12: Vehicles; apparatus for locomotion by land, air or water; cars; boats; caravans and campers; trailers; motor homes; motorcycles; bicycles; tricycles; trolleys; baby carriages, buggies and strollers; prams; canopies and hoods for prams and baby strollers; safety seats for babies for use in vehicles; parts, fittings, components and accessories for all the aforesaid goods.

Class 14: Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and chronometric instruments; jewellery boxes and cases; parts and fittings for all of the aforesaid goods.

Class 16: Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks; show guides; posters; brochures; calendars; diaries; credit cards; loyalty cards; loose leaf sheets for albums; manuals; magazines; newsletters; pamphlets; greeting cards; announcement cards; invitations and envelopes; reply cards and envelopes; thank-you cards and notes; table place cards; wedding books; guest books; document files, scrapbooks; table decorations; table linen of paper; cake decorations; hat boxes; letter trays; paintings (framed or unframed); photographs; photograph albums; blackboards; writing and drawing instruments and materials; modeling materials; paperweights; gift wrap; wrapping and packaging materials; discount coupons; vouchers of value; paper bags, envelopes and containers for packaging, maps; statues, figurines and works of art of paper or cardboard, such as figurines of papier mache, parts and fittings for all the aforesaid goods.

Class 17: Goods made from rubber and mica and not included in other classes; draught excluder strips; packing, stopping and insulating materials; flexible pipes, not of metal.

Class 18: Goods made of leather and imitation leather and not included in other classes; animal skins, hides; trunks and travelling bags; luggage; garment bags for travel; wheeled shopping bags; umbrellas, parasols and walking sticks; walking stick seats; hat boxes; vanity cases; briefcases; key cases; card cases; purses and wallets; handbags; rucksacks; school bags; sports bags; suitcases; furniture coverings of leather; whips, harness and saddlery; clothing for pets; animal

cloths and covers; collars, leashes, leads, muzzles, halters, bits and harnesses for pets; saddle covers and cloths; horseshoes; stirrups; reins; straps; towels; blankets and rugs for pets; feedbags; parts, fittings and accessories for all of the aforesaid goods.

Class 19: Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; prefabricated houses [kits], not of metal; monuments, not of metal; statuettes of stone, concrete or marble; works of art of stone, concrete or marble; mantelpieces; doors, door frames and door panels (not of metal); partitions, not of metal; windows; wooden floor boards; wood paving, wood panelling; jalousies, not of metal; staircases; latticework; conservatories (not of metal); huts; garden rooms (not of metal); porches; greenhouses (not of metal); fences (not of metal); shingle; gutters, posts and pipes (not of metal); palisading (not of metal); paving slabs; panels; plaster; flooring; floors and floor tiles (not of metal); wall tiles, not of metal; mouldings for cornices, not of metal; ceilings, not of metal; roofing; pools and ponds; insect screens, not of metal; trellises, not of metal; outdoor blinds, not of metal and not of textile; swimming pools [structures], not of metal; tree houses; bird baths (not of metal); perches; parts and fittings for all the aforesaid goods.

Class 20: Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics; easy chairs; chairs (seats); beds; mattresses; pillows and cushions; tables; desks; sofas; stools; statues; office furniture; fixtures and fittings for carpets and curtains; fixtures and fittings for doors and windows; safety latches, not of metal; door stoppers, not of metal; doors for furniture; cupboards and cabinets; shelves; baskets; bottle racks; magazine racks; picture frames; coat stands; playpens and walkers for babies; cribs; highchairs; bassinets; booster seats; infant bouncers; infant walkers; cradles and baby rockers; changing tables; baby chairs and bolsters; baby sleeping bags and bed linen; baby support pillows; coat hangers; furniture for pets; hutches, kennels, houses and carriers for pets; beds for pets; nesting boxes; grooming tables; playhouses for pets; parts and fittings for all the aforesaid goods; all other goods in this class.

Class 21: Household or kitchen utensils and containers; cooking utensils, non-electric; combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steel wool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes and goods made of these materials; decorative and ornamental objects of porcelain, ceramic, earthenware, glass and china; candlesticks; cosmetic utensils; ironing boards; baby baths and potties; brushes for animals; cages for animals; containers for pet foods; feeding dishes and bowls for pets; trays; containers for dispensing drinks to animals; id tags for pets; scoops for the disposal of pet waste; litter boxes and trays; window boxes; watering cans; dustbins; parts and fittings for all the aforesaid goods.

Class 22: Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials; bedding; hammocks; rope ladders; outdoor blinds of textile.

Class 24: Textiles and textile goods, not included in other classes; substitutes for textiles; household linen; bed and table covers and linen; mattress covers; sleeping bags; blankets for pets; towels; wall hangings of textile; curtains; cushion covers.

Class 25: Clothing, footwear, headgear; babies' clothes; children's clothes; maternity wear; beachwear; swimwear; lingerie; sleepwear; sportswear; formal wear.

Class 27: Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile); wallpaper; artificial turf.

Class 28: Games and playthings; toys and dolls; doll houses; doll house furniture; doll clothes; video game apparatus; electronic amusement apparatus incorporating a liquid crystal display; gymnastic and sporting articles not included in other classes; decorations for Christmas trees; confetti; activity toys for babies; rattles; swings and exercisers for babies and infants; dolls and playthings for babies and

toddlers; toys and playthings for animals and domestic pets; parts and fittings for all the aforesaid goods.

Class 35: Advertising; advertising services and information services relating thereto; business management; business administration; business information services; careers advice; marketing; market research; office functions; organisation of exhibitions for commercial, trade and advertising purposes; organization of trade fairs for commercial or advertising purposes; organisation of fashion shows for commercial and promotional purposes; public relations services; publicity and promotional services; marketing support services, namely advertising services, provision, dissemination and updating of promotional materials, compilation of statistics; rental of publicity materials, marketing research and sales promotion for others; conducting of auctions; information on product availability, discounts and promotions; classified advertising services; advertising and promotional services for the goods and services of others; rental of advertising space, dissemination of advertising matter; compilation of advertisements for use as web pages on the Internet; advertising mail order; presentation of goods on communication media, for retail purposes; sales promotions for others; rental of advertising space; retail and wholesale services, including via the Internet, mail order, electronic and printed publications, websites or other communication networks, connected with the sale of paints, varnishes, lacquers, preservatives against rust and against deterioration of wood, colorants, mordants, adhesives for wallpaper and wall tiles, wallpaper removing preparations, solvents for paints, varnishes and lacquers, bleaching preparations and other substances for laundry use, dry cleaning preparations, cleaning, polishing, scouring and abrasive preparations, incense, flavourings for food and beverages, soaps, perfumery, essential oils, toiletries, cosmetics, hair lotions, shampoo and hair conditioner, shaving preparations, cleansing preparations, bath and shower preparations, body creams, lotions and milks, deodorants and anti-perspirants, dentifrices, babies' bath preparations, baby oil, babies' creams, lotions and milks, baby shampoo and conditioner, toiletries for pets, namely shampoos, soaps and grooming preparations, lubricants, fuels (including motor spirit) and illuminants, candles and wicks for lighting, firelighters, transportable



buildings of metal, prefabricated houses [kits] of metal, ironmongery, small items of metal hardware, furniture casters, window fasteners, pipes and tubes of metal, air conditioning installations, fittings of metal for buildings and furniture, pipes and tiles (of metal), chimneys, safes, keys and padlocks, letter boxes of metal, all-purpose boxes of common metal, statues, busts and works of art of common metal, goods of common metal, machines and machine tools, hand-held tools, other than hand-operated, motors and engines (except for land vehicles), machine coupling and transmission components (except for land vehicles), agricultural implements other than hand-operated dishwashers, washing and drying machines, waste disposals, electric cleaning apparatus and machines, coffee grinders, can openers (electric), food preparation machines, beverage preparation machines, food processors, extractor fans, stair lifts, hand tools and implements (hand-operated), cutlery, razors, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments, apparatus and instruments for transforming electricity, adapters, apparatus for recording, transmission or reproduction of sound or images, magnetic data carriers, recording discs, calculating machines, data processing equipment and computers, fire-extinguishing apparatus, fire alarms, domestic security apparatus and equipment, spirit levels, circuit breakers, credit cards, loyalty cards, on-line electronic publications, electronic publications (downloadable), CDs, CD-ROMs, DVDs, optical disc storage media and other media storage devices, pre-recorded video tapes and cassettes, digital photo frames, digital weather stations, barometers, electronic games, computer hardware and software, computer software and hardware to enable searching of data and connection to databases and the Internet, telephones, mobile phones, answering machines, remote control apparatus, camcorders, cassette recorders, television and video apparatus, stereos, clocks, radios, scales, eyeglass cases, protective clothing, footwear and headgear, apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes, vehicles, apparatus for locomotion by land, air or water, cars, boats, caravans and campers, trailers, motor homes, motorcycles, bicycles, tricycles, trolleys, baby carriages, buggies and strollers, prams, canopies and hoods for prams and baby strollers, safety seats for babies for use in vehicles, parts, fittings, precious metals and their alloys and goods in precious metals or coated

therewith, jewellery, precious stones, horological and chronometric instruments, jewellery boxes and cases, paper, cardboard and goods made from these materials, printed matter, bookbinding material, photographs, stationery, adhesives for stationery or household purposes, artists' materials, paint brushes, typewriters and office requisites (except furniture), instructional and teaching material (except apparatus), plastic materials for packaging, printers' type, printing blocks, show guides, posters, brochures, calendars, diaries, credit cards, loyalty cards, loose leaf sheets for albums, manuals, magazines, newsletters, pamphlets, greeting cards, announcement cards, invitations and envelopes, reply cards and envelopes, thank-you cards and notes, table place cards, wedding books, guest books, document files, scrapbooks, table decorations, table linen of paper, cake decorations, hat boxes, letter trays, paintings (framed or unframed), photographs, photograph albums, blackboards, writing and drawing instruments and materials, modelling materials, paperweights, gift wrap, wrapping and packaging materials, discount coupons, vouchers of value, paper bags, envelopes and containers for packaging, maps, statues, figurines and works of art of paper or cardboard, such as figurines of papier mache, goods made from rubber and mica, draught excluder strips, packing, stopping and insulating materials, flexible pipes, not of metal, goods made of leather and imitation leather, animal skins, hides, trunks and travelling bags, luggage, garment bags for travel, wheeled shopping bags, umbrellas, parasols and walking sticks, walking stick seats, hat boxes, vanity cases, briefcases, key cases, card cases, purses and wallets, handbags, rucksacks, school bags, sports bags, suitcases, furniture coverings of leather, whips, harness and saddlery, clothing for pets, animal cloths and covers, collars, leashes, leads, muzzles, halters, bits and harnesses for pets, saddle covers and cloths, horseshoes, stirrups, reins, straps, towels, blankets and rugs for pets, feedbags, building materials (non-metallic), non-metallic rigid pipes for building, asphalt, pitch and bitumen, non-metallic transportable buildings, prefabricated houses [kits], not of metal, monuments, not of metal, statuettes of stone, concrete or marble, works of art of stone, concrete or marble, mantelpieces, doors, door frames and door panels (not of metal), partitions, not of metal, windows, wooden floor boards, wood paving, wood panelling, jalousies, not of metal, staircases, latticework, conservatories (not of metal),

huts, garden rooms (not of metal), porches, greenhouses (not of metal), fences (not of metal), shingle, gutters, posts and pipes (not of metal), palisading (not of metal), paving slabs, panels, plaster, flooring, floors and floor tiles (not of metal), wall tiles, not of metal, mouldings for cornices, not of metal, ceilings, not of metal, roofing, pools and ponds, insect screens, not of metal, trellises, not of metal, outdoor blinds (not of metal and not of textile), swimming pools [structures], not of metal, tree houses, bird baths (not of metal), perches, furniture, mirrors, picture frames, goods of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics, easy chairs, chairs (seats), beds, mattresses, pillows and cushions, tables, desks, sofas, stools, statues, office furniture, fixtures and fittings for carpets and curtains, fixtures and fittings for doors and windows, indoor blinds and shades, safety latches, not of metal, door stoppers (not of metal), doors for furniture, bolts, screws, dowels, furniture casters, collars for fastening pipes and other small items of non-metallic hardware, house numbers, not of metal (non-luminous), cupboards and cabinets, shelves, baskets, bottle racks, magazine racks, picture frames, mobiles, coat stands, umbrella stands, non-metallic letter boxes, work benches, garden furniture, camping furniture, inflatable furniture, containers (not of metal) for storage and transport, playpens and walkers for babies, cribs, highchairs, bassinets, booster seats, infant bouncers, infant walkers, cradles and baby rockers, changing tables, baby chairs and bolsters, baby sleeping bags and bed linen, baby support pillows, coat hangers, furniture for pets, hutches, kennels, houses and carriers for pets, beds for pets, nesting boxes, grooming tables, playhouses for pets, household or kitchen utensils and containers, cooking utensils, non-electric, combs and sponges, brushes (except paint brushes), brush-making materials, articles for cleaning purposes, steel wool, unworked or semi-worked glass (except glass used in building), glassware, porcelain and earthenware and goods made of these materials, decorative and ornamental objects of porcelain, ceramic, earthenware, glass and china, candlesticks, cosmetic utensils, ironing boards, baby baths and potties, brushes for animals, cages for animals, containers for pet foods, feeding dishes and bowls for pets, trays, containers for dispensing drinks to animals, id tags for pets, scoops for the disposal of pet waste, litter boxes and trays, window boxes, watering cans, dustbins, ropes,

string, nets, tents, awnings, tarpaulins, sails, sacks and bags, padding and stuffing materials (except of rubber or plastics), raw fibrous textile materials, bedding, hammocks, rope ladders, outdoor blinds of textile, textiles and textile goods, substitutes for textiles, household linen, bed and table covers and linen, mattress covers, sleeping bags, blankets for pets, towels, wall hangings of textile, curtains, cushion covers, clothing, footwear, headgear, babies' clothes, children's clothes, maternity wear, beachwear, swimwear, lingerie, sleepwear, sportswear, formal wear, carpets, rugs, mats and matting, linoleum and other materials for covering existing floors, wall hangings (non-textile), wallpaper, artificial turf, games and playthings, toys and dolls, doll houses, doll house furniture, doll clothes, video game apparatus, electronic amusement apparatus incorporating a liquid crystal display, gymnastic and sporting articles, decorations for Christmas trees, confetti, activity toys for babies, rattles, swings and exercisers for babies and infants, dolls and playthings for babies and toddlers, toys and playthings for animals and domestic pets, parts and fittings for all the aforesaid foods, agricultural, horticultural and forestry products and grains, natural and artificial plants and flowers, animal food and supplements, animal litter, pet care products, foodstuffs, alcoholic, low-alcohol and non-alcoholic beverages, diabetic and medicated foodstuffs, healthcare and medicinal products, vitamins minerals and supplements, beauty products, cosmetics, toiletries, perfumery, jewellery, clocks, watches, lamps and lighting, bed linen, cushions, curtains, carpets, mats, matting, textiles, furnishings, fixtures and fittings for the home, table linen, furniture, haberdashery, home accessories, glassware and dinnerware, household containers and utensils, kitchenware, ornaments, goods made of paper or cardboard, greeting cards, magazines, stationery, books, printed matter, publications, novelties, festive decorations, bags, luggage, leather goods, imitation leather goods, clothing, footwear, headwear, hair and fashion accessories, sunglasses and spectacles, cameras, photographic equipment, CDs, DVDs, optical disc storage media, computer software and hardware, computer equipment and accessories, electronic games, apparatus for recording, transmission or reproduction of sound or images, domestic electrical and electronic equipment, optical goods, machines for household use, white

goods, domestic security apparatus and devices, garden furniture and accessories, gardening equipment, garden ornaments and statues, ponds and pools, building materials, hand tools, power tools, painting and decorating equipment, cleaning products and equipment, vehicles and bicycles, walking aids, toys, games and playthings, gymnastic and sporting articles and equipment, oils and fuels, fireworks, tobacco products, components, parts, fittings and accessories for all of the aforesaid goods; loyalty scheme services; loyalty, incentive and bonus program services; demonstration of goods; presentation of goods on communication media, for retail purposes; sales promotion for others; price comparison services; subscriptions services; provision of commercial information; providing an online commercial information directory on the Internet; market studies and analysis; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or from the Internet.

Class 36: Insurance; financial affairs; monetary affairs; investment services; real estate affairs; financial appraisal; financing services; issuance of credit cards; financial sponsorship; issue of tokens, coupons and vouchers of value; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or the Internet.

Class 37: Building construction; repair; installation services; cleaning services; painting and decorating services; building maintenance services; installation of security and safety equipment; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or the Internet.

Class 38: Telecommunications; telecommunication of information (including web pages), computer programs and any other data; electronic mail services; provision of telecommunications access and links to computer databases and the Internet; provision of web pages; telecommunication services provided in relation to the Internet; telephone rental services; provision and rental of telephone chat lines; electronic bulletin board services; instant messaging services; voicemail services;

information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database or from the Internet.

Class 39: Transport; packaging and storage of goods; delivery of goods; removal services; travel services; travel arrangements; vehicle hire; information, advisory and consultancy services related to all the aforesaid services; all the aforesaid services also provided on-line from a computer database or from the Internet.

Class 41: Education; providing of training; entertainment; sporting and cultural activities; organisation of exhibitions for cultural or educational purposes; instructional services; organisation of parties and celebrations; photography services; organisation of exhibitions and shows; organisation of live demonstrations; organisation of workshops for educational purposes; organisation of live shows featuring celebrity appearances; organisation of shows and exhibitions featuring show homes, room sets and show gardens; organisation of competitions, quizzes, games and recreational and cultural facilities; organisation of fashion shows; electronic games services provided by means of the Internet or telecommunications; game services provided on-line; Internet games (non-downloadable); provision of games by means of a computer based system; amusement services; production of shows; production of radio and television programmes and shows; publication of printed matter and printed publications; publishing and publication services; electronic publishing services; providing on-line electronic publications (not downloadable); publication of electronic books and journals on-line; commissioned writing; booking services; arranging of tickets for sporting, cultural and entertainment, events, concerts and shows; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or from the Internet.

Class 42: Technological services and research and design relating thereto; architectural services; interior design; industrial research; design and development of computer hardware and software; design, drawing and commissioned writing, all for the compilation of web pages on the Internet; software as a service; platform as a

service; information services relating to the Internet; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or the Internet.

**(iii) Show's application number 3035681 IDEAL HOME**

Class 2: Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.

Class 3: Bleaching preparations and other substances for laundry use; dry cleaning preparations; cleaning, polishing, scouring and abrasive preparations; incense; flavourings for food and beverages; soaps; perfumery, essential oils, toiletries; cosmetics; hair lotions; shampoo and hair conditioner; shaving preparations; bath and shower preparations; body creams, lotions and milks; deodorants and anti-perspirants; dentifrices; babies' bath preparations; baby oil; babies' creams, lotions and milks; baby shampoo and conditioner; toiletries for pets, namely shampoos, soaps and grooming preparations.

Class 4: Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles and wicks for lighting; firelighters.

Class 6: Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; fittings of metal for buildings and furniture; pipes and tiles (of metal); chimneys; safes; keys and padlocks; metal baskets, metal beams, bed casters of metal, bird baths of metal, boxes of common metal, buildings of metal, busts of common metal, cash boxes, ceilings of metal, chests of metal, bins of metal, cladding of metal for building, clips of metal for cables and pipes, clips of metal for sealing bags, clothes hooks of metal, door stops of metal, door scrapers, foot scrapers, door bells of metal, non-electric, door knockers of metal, door handles of

metal, door panels of metal, door bolts of metal, door frames of metal, door casings of metal, door fittings of metal, doors of metal, drain pipes of metal, fences of metal, figurines [statuettes] of common metal, fireplace mantles of metal, fittings of metal for windows and furniture, floor tiles of metal, floors of metal, frames of metal for building, furniture casters of metal, greenhouse frames of metal, greenhouses of metal, transportable, hinges of metal, hooks [metal hardware], house numbers of metal, non-luminous, insect screens of metal, ironwork for doors and windows, jalousies of metal, knobs of metal, ladders of metal, latches of metal, letter boxes of metal, outdoor blinds of metal, porches [structures] of metal, reinforcing materials of metal for building, roof coverings of metal, roofing tiles of metal, safes [metal or non-metal], strongboxes [metal or non-metal], shutters of metal, statues of common metal, staircases of metal, tile floorings of metal, tool boxes of metal, empty; ores; parts and fittings for all of the aforesaid goods.

Class 7: Machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs; dishwashers; washing and drying machines; waste disposals; electric cleaning apparatus and machines; coffee grinders; can openers (electric); food preparation machines; food processors; parts and fittings for all of the aforesaid goods.

Class 8: Hand tools and implements (hand-operated); cutlery; side arms; razors; parts and fittings for all of the aforesaid goods.

Class 9: Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus; fire alarms; domestic security apparatus and equipment; spirit levels; circuit breakers; credit cards; loyalty cards; on-line electronic publications; electronic publications (downloadable); CDs; CD-ROMs; DVDs; optical disc storage media and



other media storage devices; pre-recorded video tapes and cassettes; computer hardware and software; computer software and hardware to enable searching of data and connection to databases and the Internet; telephones; mobile phones; answering machines; remote control apparatus; camcorders; cassette recorders; television and video apparatus; stereos; radio alarm clocks; radios; scales; eyeglass cases; parts and fittings for all of the aforesaid goods.

Class 11: Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes; air conditioning installations; extractor fans; parts and fittings for all of the aforesaid goods.

Class 12: Vehicles; apparatus for locomotion by land, air or water; cars; boats; caravans and campers; trailers; motorcycles; bicycles; tricycles; trolleys; baby carriages, buggies and strollers; prams; canopies and hoods for prams and baby strollers; safety seats for babies for use in vehicles; parts, fittings, components and accessories for all the aforesaid goods.

Class 14: Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes, namely, clocks, boxes of precious metal, busts of precious metal, chronometers, figurines [statuettes] of precious metal, jewellery boxes, statues of precious metal, sundials; jewellery, precious stones; horological and chronometric instruments; jewellery boxes and cases; alarm clocks; parts and fittings for all of the aforesaid goods.

Class 16: Paper, cardboard; albums, announcement cards, bookends, boxes of paper or cardboard, document files, drawer liners of paper, perfumed or not, drawing boards, figurines [statuettes] of papier mache, files, folders, graphic prints, hat boxes of cardboard, letter trays, note books, table linen of paper, packing [cushioning, stuffing] materials of paper or cardboard, pictures; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks; show guides; posters; brochures; calendars; diaries; credit cards; loyalty cards; loose leaf

sheets for albums; manuals; magazines; newsletters; pamphlets; greeting cards; announcement cards; invitations and envelopes; reply cards and envelopes; thank-you cards and notes; table place cards; wedding books; guest books; table decorations; cake decorations; hat boxes; letter trays; paintings (framed or unframed); photographs; photograph albums; blackboards; writing and drawing instruments and materials; modelling materials; paperweights; gift wrap; wrapping and packaging materials; maps; parts and fittings for all the aforesaid goods.

Class 17: Rubber, gutta-percha, gum, asbestos, mica; rubber, mica; stair fittings and edgings of rubber; draught excluders of rubber; decorative articles made of mica; anti-dazzle films for windows [tinted films], door stops of rubber, duct tapes, elastic yarns, not for use in textiles; elastic threads, not for use in textiles, expansion joint fillers; fibreglass for insulation; glass fibres, for insulation; fittings, not of metal, for flexible pipes; fittings, not of metal, for rigid pipes; insulating materials; packing [cushioning, stuffing] materials of rubber or plastics; padding materials of rubber or plastics; stuffing of rubber or plastic; soundproofing materials; weatherstripping compositions; window stops of rubber; draught excluder strips; packing, stopping and insulating materials; flexible pipes, not of metal; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.

Class 18: Leather and imitations of leather; bags; valises; garment bags for travel; animal skins, hides; trunks and travelling bags; luggage; luggage labels; wheeled shopping bags; umbrellas, parasols and walking sticks; walking stick seats; hat boxes; vanity cases; briefcases; key cases; card cases; purses and wallets; handbags; rucksacks; school bags; sports bags; suitcases; furniture coverings of leather; whips, harness and saddlery; clothing for pets; animal cloths and covers; collars, leashes, leads, muzzles, halters, bits and harnesses for pets; saddle covers and cloths; horse blankets; horseshoes; stirrups; reins; straps; blankets and rugs for pets; feedbags; parts, fittings and accessories for all of the aforesaid goods; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; hat boxes; briefcases; key cases; card cases; purses and wallets; rucksacks; school bags; sports bags; suitcases; furniture coverings of leather; whips, harness and saddlery; clothing for pets; animal cloths and covers; collars, leashes, leads,

muzzles, halters, bits and harnesses for pets; saddle covers and cloths; horseshoes; stirrups; reins; straps; blankets and rugs for pets; feedbags; parts, fittings and accessories for all of the aforesaid goods.

Class 19: Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal; mantelpieces; doors, door frames and door panels (not of metal); windows; staircases; latticework; conservatories (not of metal); garden rooms (not of metal); porches; greenhouses (not of metal); fences (not of metal); shingle; gutters, posts and pipes (not of metal); palisading (not of metal); paving slabs; panels; plaster; flooring; floors and floor tiles (not of metal); roofing; pools and ponds; bird baths (not of metal); perches; parts and fittings for all the aforesaid goods.

Class 20: Furniture, mirrors, picture frames; ornaments or models made of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics, namely, chests for toys, boxes of wood or plastic, containers, not of metal [storage, transport], furniture fittings, not of metal, house numbers, not of metal, non-luminous, display stands, flower-pot pedestals, hand-held mirrors [toilet mirrors], house numbers, not of metal, non luminous, ladders of wood or plastics, locks, other than electric, not of metal, mobiles [decoration], mirrors [looking glasses], umbrella stands and valet stands; easy chairs; chairs (seats); beds; mattresses; pillows and cushions; tables; desks; sofas; stools; statues; office furniture; fixtures and fittings for carpets and curtains; fixtures and fittings for doors and windows; safety latches, not of metal; door stoppers, not of metal; doors for furniture; cupboards and cabinets; shelves; baskets; bottle racks; magazine racks; picture frames; coat stands; playpens and walkers for babies; cribs; highchairs; bassinets; booster seats; infant bouncers; infant walkers; cradles and baby rockers; changing tables; baby chairs and bolsters; baby sleeping bags; baby support pillows; coat hangers; furniture for pets; hutches, kennels, houses and carriers for pets; beds for pets; nesting boxes; grooming tables; playhouses for pets; bedding, except linen; parts and fittings for all the aforesaid goods.

Class 21: Household or kitchen utensils and containers; combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steel wool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes; baby baths and potties; brushes for animals; cages for animals; containers for pet foods; feeding dishes and bowls for pets; trays; containers for dispensing drinks to animals; id tags for pets; scoops for the disposal of pet waste; litter boxes and trays; parts and fittings for all the aforesaid goods.

Class 22: Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials; feathers for bedding.

Class 24: Textiles and textile goods, not included in other classes; bed and table covers and linen; wall hangings of textile; curtains; cushion covers; towels; bed linen.

Class 25: Clothing, footwear, headgear; babies' clothes; children's clothes; maternity wear; beachwear; sleepwear; sportswear; formal wear.

Class 27: Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile); wallpaper; artificial turf.

Class 28: Games and playthings; toys and dolls; doll houses; doll clothes; gymnastic and sporting articles not included in other classes; decorations for Christmas trees; confetti; activity toys for babies; rattles; swings and exercisers for babies and infants; dolls and playthings for babies and toddlers; toys and playthings for animals and domestic pets; electronic games; parts and fittings for all the aforesaid goods.

Class 35: Advertising; advertising services and information services relating thereto; business management; business administration; business information services; careers advice; marketing; market research; office functions; organisation of exhibitions for commercial and advertising purposes; public relations services; publicity and promotional services; marketing support services, namely advertising

services, provision, dissemination and updating of promotional materials, compilation of statistics; rental of publicity materials, marketing research and sales promotion for others; conducting of auctions; information on product availability, discounts and promotions; classified advertising services; advertising and promotional services for the goods and services of others; rental of advertising space, dissemination of advertising matter; compilation of advertisements for use as web pages on the Internet; advertising mail order; presentation of goods on communication media, for retail purposes; sales promotions for others; rental of advertising space; retail, wholesale and mail order retail services connected with the sale of agricultural, horticultural and forestry products and grains, natural and artificial plants and flowers, animal food and supplements, animal litter, foodstuffs, alcoholic, low-alcohol and non-alcoholic beverages, diabetic and medicated foodstuffs, healthcare and medicinal products, vitamins minerals and supplements, beauty products, cosmetics, toiletries, perfumery, jewellery, clocks, radio alarm clocks, alarm clocks, watches, lamps and lighting, bed linen, cushions, curtains, carpets, mats, matting, textiles, furnishings, table linen, furniture, haberdashery, glassware and dinnerware, household containers and utensils, kitchenware, ornaments, greeting cards, magazines, stationery, books, printed matter, publications, novelties, festive decorations, bags, luggage, clothing, footwear, headwear, hair and fashion accessories, sunglasses and spectacles, cameras, photographic equipment, CDs, DVDs, optical disc storage media, computer software and hardware, computer equipment and accessories, electronic games, apparatus for recording, transmission or reproduction of sound or images, domestic electrical and electronic equipment, optical goods, machines for household use, white goods, domestic security apparatus and devices, garden furniture, gardening equipment, garden ornaments and statues, ponds and pools, building materials, hand tools, power tools, painting and decorating equipment, cleaning products and equipment, vehicles and bicycles, walking aids, toys, games and playthings, gymnastic and sporting articles and equipment, oils and fuels, fireworks, tobacco products, metal baskets, metal beams, bed casters of metal, bird baths of metal, boxes of common metal, buildings of metal, busts of common metal, cash boxes, ceilings of metal, chests of metal, bins of metal, cladding of metal for building, clips of metal for cables and pipes, clips of metal for sealing bags, clothes hooks of metal, door stops of metal, door scrapers, foot scrapers, door bells of metal, non-electric, door knockers of metal, door handles of

metal, door panels of metal, door bolts of metal, door frames of metal, door casings of metal, door fittings of metal, doors of metal, drain pipes of metal, fences of metal, figurines [statuettes] of common metal, fireplace mantles of metal, fittings of metal for windows and furniture, floor tiles of metal, floors of metal, frames of metal for building, furniture casters of metal, greenhouse frames of metal, greenhouses of metal, transportable, hinges of metal, hooks [metal hardware], house numbers of metal, non-luminous, insect screens of metal, ironwork for doors and windows, jalousies of metal, knobs of metal, ladders of metal, latches of metal, letter boxes of metal, outdoor blinds of metal, porches [structures] of metal, reinforcing materials of metal for building, roof coverings of metal, roofing tiles of metal, safes [metal or non-metal], strongboxes [metal or non-metal], shutters of metal, statues of common metal, staircases of metal, tile floorings of metal, tool boxes of metal, empty, goods in precious metals or coated therewith, not included in other classes, namely, clocks, boxes of precious metal, busts of precious metal, chronometers, figurines [statuettes] of precious metal, jewellery boxes, statues of precious metal, sundials, albums, announcement cards, bookends, boxes of paper or cardboard, document files, drawer liners of paper, perfumed or not, drawing boards, figurines [statuettes] of papier mache, files, folders, graphic prints, hat boxes of cardboard, letter trays, note books, table linen of paper, packing [cushioning, stuffing] materials of paper or cardboard, pictures, rubber, mica, stair fittings and edgings of rubber, draught excluders of rubber, decorative articles made of mica, anti-dazzle films for windows [tinted films], door stops of rubber, duct tapes, elastic yarns, not for use in textiles, elastic threads, not for use in textiles, expansion joint fillers, fibreglass for insulation, glass fibres, for insulation, fittings, not of metal, for flexible pipes, fittings, not of metal, for rigid pipes, insulating materials, packing [cushioning, stuffing] materials of rubber or plastics, padding materials of rubber or plastics, stuffing of rubber or plastic, soundproofing materials, weatherstripping compositions, window stops of rubber, draught excluder strips, packing, stopping and insulating materials, flexible pipes, not of metal, leather and imitations of leather, bags, valises, garment bags for travel, animal skins, hides, trunks and travelling bags, luggage, luggage labels, wheeled shopping bags, umbrellas, parasols and walking sticks, walking stick seats, hat boxes, vanity cases, briefcases, key cases, card cases, purses and wallets, handbags, rucksacks, school bags, sports bags, suitcases, furniture coverings of leather, whips, harness and saddlery, clothing for pets, animal cloths and covers,

collars, leashes, leads, muzzles, halters, bits and harnesses for pets, saddle covers and cloths, horse blankets, horseshoes, stirrups, reins, straps, blankets and rugs for pets, feedbags, parts, fittings and accessories for all of the aforesaid goods, ornaments or models made of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics, goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics, namely, chests for toys, boxes of wood or plastic, containers, not of metal [storage, transport], furniture fittings, not of metal, house numbers, not of metal, non-luminous, display stands, flower-pot pedestals, hand-held mirrors [toilet mirrors], house numbers, not of metal, non luminous, ladders of wood or plastics, locks, other than electric, not of metal, mobiles [decoration], mirrors [looking glasses], umbrella stands and valet stands, air conditioning installations, extractor fans, towels, bedding, feathers for bedding, parts, fittings and accessories for all of the aforesaid goods, all the aforesaid services also provided via the Internet, electronic and printed publications, websites or other communication networks; provision of commercial information; providing an online commercial information directory on the Internet; market studies and analysis; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or from the Internet.

Class 36: Insurance; financial affairs; monetary affairs; investment services; real estate affairs; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or the Internet.

Class 37: Building construction; repair services relating to roofing, ceiling, walls, floors, furniture, building, upholstery, electric appliances, machines, vehicles and watercraft, heating apparatus, refrigerating apparatus, sanitary installations, lighting, cooking, drying and ventilating apparatus, kitchen equipment, flooring and floor coverings, soft furnishings, energy and water supply apparatus, building contents, drains, pipes and guttering, household articles, plastering, woodwork, utilities and alarms; installation of roofing, ceiling, walls, floors, furniture, building, upholstery,

electric appliances, machines, vehicles and watercraft, heating apparatus, refrigerating apparatus, sanitary installations, lighting, cooking, drying and ventilating apparatus, kitchen equipment, flooring and floor coverings, soft furnishings, energy and water supply apparatus, building contents, drains, pipes and guttering, household articles, plastering, woodwork, utilities and alarms; cleaning services; painting and decorating services; building maintenance services; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or the Internet.

Class 38: Telecommunications; telecommunication of information (including web pages), computer programs and any other data; electronic mail services; provision of telecommunications access and links to computer databases and the Internet; provision of access to web pages; telecommunication services provided in relation to the Internet; telephone rental services; provision and rental of telephone chat lines; electronic bulletin board services; instant messaging services; voicemail services; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database or from the Internet.

Class 39: Transport; packaging and storage of goods; travel services; travel arrangements; vehicle hire; information, advisory and consultancy services related to all the aforesaid services; all the aforesaid services also provided on-line from a computer database or from the Internet.

Class 41: Education; providing of training; entertainment; sporting and cultural activities; organisation of exhibitions for cultural or educational purposes; instructional services; organisation of parties and celebrations; photography services; organisation of exhibitions and shows; organisation of competitions, quizzes, games and recreational and cultural facilities; electronic games services provided by means of the Internet or telecommunications; game services provided on-line; Internet games (non-downloadable); provision of games by means of a computer based system; amusement services; production of shows; production of radio and television programmes and shows; publication of printed matter and



printed publications; publishing and publication services; electronic publishing services; providing on-line electronic publications (not downloadable); publication of electronic books and journals on-line; commissioned writing; booking services; arranging of tickets for sporting, cultural and entertainment, events, concerts and shows; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or from the Internet.

Class 42: Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; design, drawing and commissioned writing, all for the compilation of web pages on the Internet; syndicated writing concerning the Internet and on-line computer services; information services relating to the Internet; information, advisory and consultancy services relating to all the aforesaid services; all the aforesaid services also provided on-line from a computer database and/or the Internet.