

O/351/20

TRADE MARKS ACT 1994

TRADE MARK No. 2500604 IN THE NAME OF SKY LIMITED

AND

APPLICATION No. 502326 BY ONTRO LIMITED

FOR THE TRADE MARK TO BE REVOKED FOR NON-USE

IN RELATION TO GOODS/SERVICES IN CLASSES 16, 18, 28, 35, 39 & 41

Background

1. The trade mark **SKY** was entered in the register on 7th September 2012. It is registered in relation to a wide range of goods/services in classes 3, 4, 7, 9, 11, 12, 16, 17, 18, 25, 28, 35 – 45.
2. Sky Limited (“Sky”) is the registered proprietor.
3. On 1st November 2018, Ontro Limited (“Ontro”) applied under section 46(1)(b) of the Trade Marks Act 1994 (“the Act”) for the registration of the **SKY** mark in classes 16, 18, 28, 35, 39 & 41 to be revoked with effect from 1st November 2018. The goods/services in question are shown in Annex A.
4. Ontro’s ground for revocation is that no genuine use was made of the mark between 1st November 2013 and 31st October 2018 (“the relevant period”) in relation to the goods/services covered by its application for revocation.
5. Sky filed a counterstatement denying the ground for revocation and claiming that the mark had been used within the relevant period in relation to the goods/services at issue.
6. As a result of some initial skirmishing between the parties about the volume of Sky’s proposed evidence of use and the time it should be allowed to file it, a Case Management Conference (“CMC”) was appointed. Prior to that CMC, I invited the parties to actively narrow the issues in dispute. In the context of these proceedings, that meant limiting the number of goods/services attacked for non-use, and the number defended.
7. On 15th May 2019, Sky filed an amended, and much reduced, list of the goods/services it intended to defend against the application for revocation for non-use.
8. Following a second CMC on 20th January 2020, I gave Sky permission to amend its defence again. This time to cover some services in class 35 that it had earlier indicated that it was not going to defend. This was because Sky claimed to have found (and filed) some evidence of use of the SKY mark in relation to these services. The final list of defended goods/services is shown at Annex B.

9. Ontro maintained its application to revoke the SKY trade mark for non-use in relation to all the defended goods/services, including rather surprisingly, TV entertainment services in class 41.

10. A substantive hearing was listed for 2nd March 2020.

11. On 26th February 2020, the applicant sent a letter noting that Sky had 'withdrawn' "vast tranches" of the registration, and claiming that the application had therefore already succeeded to a large extent. The letter gave notice that "...with respect to the valuable time of the Office and the parties", the applicant was withdrawing its application.

12. The applicant also sought an award of costs.

13. Through a series of subsequent letters to the registrar, the parties disagreed about the consequences of Ontro's withdrawal of its application. Broadly, Sky took the position that following the withdrawal of the application for revocation the **SKY** trade mark should remain registered for all the goods/services. Ontro took the position that the registration of the mark should be revoked in relation to the goods/services Sky had decided not to defend in the non-use revocation proceedings.

The preliminary decision

14. On 25th March 2020, I issued a preliminary decision on the outcome of the revocation proceedings. This is reproduced below.

"OUTCOME OF REVOCATION APPLICATION 502326

1. I have considered the contents of the letters from Ontro dated 26th February, 3th March and 6th March. I have also considered the contents of the letters from Sky dated 28th February, 2nd March, 4th March and 9th March.

2. I note that by way of its letter of 26th February, Ontro withdrew its revocation application against trade mark 2500604. Ontro considered that the revocation application had already succeeded to a large degree because of Sky's "withdrawal" of large parts of the registered specifications in the six classes covered by the revocation application. I note that Ontro relies on the

principle of abandonment [of an issue] as per The Queen on the Application of Srinivasans Solicitors v Croydon County Court and Anr [2013] EWCA Civ 249.

3. *Ontro asks for an award of costs.*

4. *Sky's case appears to be that:*

(1) it never withdrew its trade mark in relation to the goods/services set out in its letter of May 2019;

(2) the letter of May 2019 indicated which goods/service it intended to defend in the revocation proceedings, and which goods/services it no longer intended to defend;

(3) Ontro's withdrawal of the revocation application was unconditional;

(4) The withdrawal of the revocation application means that its decision not to defend the application in relation to certain goods/services is of no effect because the registrar cannot make an order under s.46 of the Act once an application for revocation has been withdrawn;

(5) There is no other legal basis on which the registrar can revoke the registration of the trade mark in relation to the goods/services it elected not to defend in the revocation proceedings;

(6) Similarly, the registrar cannot award Ontro costs because the Rules only allow for costs to be awarded to parties to proceedings, and Ontro ceased to be a party when it withdrew its application.

5. *I note that Sky does not, at this stage, seek an award of costs.*

6. *This is my preliminary view of the matter:*

(1) Section 46 of the Act gives the registrar the power to revoke, or partially revoke, a trade mark registration following an application to revoke the trade mark for non-use;

(2) Although the proprietor filed a counterstatement denying the grounds for revocation as per Rule 38(3), it later withdrew its defence

in relation to a large proportion of the goods/services covered by the application;

(3) It is difficult to see how a proprietor who, having initially defended the whole registration, later elects not to contest an application for revocation in relation to some of the goods/services at issue, can be in a better position than a proprietor who fails to file a defence at the outset in relation to those goods/services;

(4) The consequences of failing to file a counterstatement are set out in Rules 38(6), i.e. the registration shall be revoked (unless the registrar directs otherwise);

(5) Likewise, it is difficult to see how a proprietor who, having initially defended the whole registration, later elects not to contest an application for non-use in relation to some of the goods/services at issue, can be in a better position than a proprietor who continues to contest the application, but fails to file evidence of use of the mark in relation to the goods/services covered by the application, within the periods allowed for doing so;

(6) According to Rule 38(7), such a proprietor shall be treated as not opposing the application;

(7) Although the Rules do not expressly deal with the outcome of a partly defended registration, it is well established that the registrar has an inherent power to regulate his own procedures where the Rules are silent, provided he does not act contrary to the Rules or principles of natural justice;

(8) Both the above scenarios appear to point to the appropriateness of a decision in this case revoking the trade mark in relation to the undefended goods/services;

(9) Once an application for revocation has been made, I see nothing in s.46 of the Act, or in the Rules, which prevents the registrar from revoking a trade mark because the applicant has given notice that it intends to withdraw its application;

(10) The caselaw in relation to patents appears to support the proposition that the registrar may revoke an IP right, even where an applicant gives notice that it is unconditionally withdrawing its application for revocation, if it is in the public interest to continue with the action (see R v Comptroller General of Patents, ex parte Ash & Lacey Building Products Ltd [2002] RPC 46);

(11) It is clearly in the public interest to revoke a trade mark for non-use where the proprietor of the mark has elected not to contest an application for revocation for non-use.

7. Acting on behalf of the registrar, I am therefore minded to revoke the trade mark for non-use in relation to those goods/services for which the application for revocation was undefended at the date of the notice of its withdrawal. The list of goods/services is set out in Sky's letter of May 2019. However, I do not intend to revoke the trade mark in relation to the additional retail services in class 35 set out in Sky's letter of 2nd December 2019. This is because Sky was given permission to add these services to the list of defended goods/services (based on evidence filed at the same time) prior to the notice of withdrawal of the application for revocation.

8. It is well-established that the registrar has power to award costs against a party who was party to proceedings, but later withdraws from them, or who did not formally join the proceedings in the first place, e.g. proprietors who fail to file counterstatements. By parity of reasoning, the registrar must, as a matter of principle, be able to award costs to a party who incurred costs whilst they were a party to the proceedings. However, as things stand, I am not minded to award costs to either party to these proceedings. This is because neither party appears to merit an award of costs.

9. If either party wishes to be heard before I make a final decision, I will arrange for a hearing. In the current circumstances, this will be held by teleconference rather than together in one place.

10. Any request for such a hearing must be made by 25th April 2020."

15. I subsequently received a letter from Sky's representatives saying that although the proprietor did not agree with my preliminary decision, it did not wish to be heard. In the same letter, Sky accepted that each side should bear its own costs.

16. I received no response from Ontro.

Final decision

17. In the light of Sky's response, I have decided that trade mark registration 2500604 should be revoked with effect from 1st November 2018 in relation to the goods/services in classes 16, 18, 28, 35, 39 & 41, except for the goods/services in classes 16, 18, 35 & 41 set out in Annex B below.

18. My reasons for the decision are set out in my preliminary decision (above).

Costs

19. Both parties have achieved a measure of success.

20. I also take into account that Ontro did not assist with case management to narrow the issues in dispute, maintaining its claim that **SKY** had not been put to genuine use, even in relation to TV entertainment services in class 41.

21. I also take into account that Ontro knew which goods/services Sky was defending by, at the latest, 2nd December 2019, and yet left it just before the hearing to withdraw its application. Ontro sought to justify the lateness of the withdrawal by pointing out that Sky had (at my invitation) only two weeks before provided a witness statement explaining the basis for the dates shown in its evidence of use. However, I note that, in the same letter, Ontro disputed the adequacy of this evidence. Therefore, even if it had been filed earlier, it is unlikely to have been sufficient to resolve Ontro's claim.

22. In the circumstances, I see no case for making an award of costs in favour of Ontro.

23. The trade mark has been revoked in relation to more of the goods/services that Sky initially defended than it has retained. I therefore see no case for an award of costs in Sky's favour.

24. I therefore order both sides to bear their own costs.

Dated 15th July 2020

Allan James

For the Registrar

ANNEX A

Class 16: Printed matter; publications, newspapers, magazines (periodicals), comics, journals (publications) and books; excluding publications distributed in-flight to airline travellers in connection with airline services and not being predominantly a television or cinema listings magazine; publications including strategy guides, user manuals, books and magazines all in the field of computer games, science fiction, games and entertainment; quiz books; shopping guides listing products for purchase; promotional literature relating to the promotion of goods for sale via digital television, the Internet or other telecommunication channels; photographs; instructional and teaching materials (other than apparatus); posters; postcards and greeting cards; calendars; diaries; cards and stickers for collecting and collating in albums; writing requisites; rulers; erasers; writing paper; writing sets; catalogues; vouchers, all for holidays and for travel to and from the destination; adhesive stickers; advertising material; advertisements; bags; credit cards; instructional manuals; newsletters; pens; pencils; writing instruments; pen and pencil holders; programme guides; user guides or manuals; paper, cardboard and goods made from these materials; printed matter; bookbinding material; photographs; adhesives for stationery or household purposes; artists' materials; plastic materials for packaging; publications; magazines; including all the aforesaid made from recycled and/or unbleached materials and/or from organic matter.

Class 18: Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery; handbags, backpacks, school bags, beach bags, travelling bags, suitcases, trunks, haversacks, bags for campers, fur-skins, collars for animals, covers for animals, boxes of leather or leather board, attaché cases, pocket wallets, school satchels and briefcases, key cases (leatherwear) attaché cases, backpacks, beach bags, briefcases, canes, card cases, key cases, leather shoulder belts net bags, parasols, pocket wallets, purses, pouches, rucksacks, school bags, school satchels, sling bags, shopping bags, suitcases, garment bags, tote bags, travelling trunks, valises, vanity cases, umbrella covers, and wallets.

Class 28: Toys, games and playthings; electronic games; hand-held devices for playing electronic, computer or video games; video games apparatus; parts and fittings for all the aforesaid goods; playing cards; card games, sporting articles; games involving gambling; amusement machines; amusement apparatus and instruments; interactive educational or entertainment games.

Class 35: Advertising and promotional services; business management; business administration; office functions; administration services for businesses; customer relationship management, namely a marketing and public relation service; organisation, operation and supervision of sales and promotional incentive schemes; provision of product information and advice to prospective purchasers of home entertainment equipment, multi-media apparatus and instruments, television and radio equipment, audio visual equipment, set top boxes, personal video recorders, video recorders, computer games software, hardware and peripheral devices; rental

of advertising space; television advertising commercials; preparation and presentation of audio visual displays for advertising purposes; dissemination of advertising matter; arranging and conducting of trade shows and exhibitions; arranging and conducting trade show exhibitions in the field of electronic, computer and video games for the computer and video game industry; advertisement and promotion of television services; compilation of business statistics and commercial information; loyalty card services; marketing studies; marketing of radio programmes, television programmes, films, motion pictures, pre-recorded video tapes, audio and/or visual material, pre-recorded video cassettes, DVDs or pre-recorded video discs; monitoring and analysis of call information (office services); business planning, inspection, survey and appraisal services; receipt, storage and provision of computerised business information data; compilation of business statistics and commercial information, all relating to television, radio, satellite broadcasting and video games; magazine and newspaper subscriptions; the bringing together, for the benefit of others of a variety of goods namely beauty products, toiletries, personal care products, cosmetics, perfumery, candles, pharmaceutical and veterinary goods, machines for household use, building, home improvement and gardening goods, home decorating equipment, paints and varnishes, hand tools, scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, radio, television, sound recording, sound reproducing, telecommunications, signalling, checking (supervision), teaching apparatus and instruments, amusement machines, video screens, video projectors, computer and video games, computer software, computer hardware and peripheral devices, computer games hardware and peripheral devices, portable and/or hand-held devices or computers for playing electronic, computer or video games, computer or video games software, computer software for playing video games and computer games, games software, quiz software, games consoles, interactive video games devices comprised of computer hardware and software and accessories, portable and/or hand-held electronic devices for receiving, playing and transmitting music, sounds, images, text, signals, information and code, Portable Wireless Audio Devices, virtual reality systems, home entertainment equipment, multi-media equipment, audio visual equipment, video and television equipment, set top boxes, personal video recorders, video recorders, television receivers, satellite reception equipment, satellite dishes, MP3 players and readers, blank and pre-recorded audio and video cassettes, tapes, cartridges and discs, pre-recorded music, CDs, DVDs, records, tapes and films, cameras, telephones, mobile telephones, accessories for mobile telephones, sunglasses, spectacles, contact lenses, agricultural and horticultural goods, musical instruments, medical equipment, domestic electrical and electronic equipment including white goods, jewellery, clocks, watches, stationery, printed publications, books, newspapers, magazines, comics, journals, quiz books, shopping guides listing products for purchase, television listings magazines, printed materials, diaries, organizers, greeting cards, gift wrap, writing paper, writing sets, stickers for collecting and collating in albums, leather goods, luggage, footwear, headgear, clothing and accessories, hair accessories, lighting, kitchenware, glassware, china, porcelain, ornaments, furniture, kitchens, sanitary ware, art, paintings, posters, postcards, prints, photographs, household containers and

utensils, crockery, cutlery, furnishings, carpets, textiles, table linen, bed linen, haberdashery, sewing machines and equipment, toys, games and playthings, playing cards, sports equipment, fitness equipment, camping equipment, pets goods, food and drink, massage apparatus, massage chairs and massage cushions, foot spas, deck chairs, aromatherapy apparatus, saunas, hammocks, yoga equipment, pilates equipment, meditation equipment, water features, sound therapy software and recordings, motor vehicles and their parts, enabling customers to conveniently view and purchase those goods including via an Internet website, an interactive television shopping channel, a digital television shopping channel, an Internet walled garden or by means of interactive television and/or telecommunications (including voice, telephony and/or transfer of digital information or data) and/or interactive digital media; customer information and consultancy services for promotional, advertising and marketing purposes in relation to broadcast reception apparatus and instruments and parts and fittings therefor including cable, satellite and terrestrial, analogue or digital reception; advertising and promotional services in relation to lifestyle, ecological and environmental issues; management and conducting of renewable energy projects, including wind power, hydroelectric power, tidal power, geothermal power, solar power, biomass, and biofuels and projects in connection with other renewable energy sources; collection and processing of operational experiences in connection with renewable energy projects, including wind power, hydroelectric power, tidal power, geothermal power, solar power, biomass, and biofuels, including compilation of statistics relating to operation and production; the bringing together for the benefit of others, via an Internet website, an interactive television shopping channel, a digital television shopping channel, an Internet walled garden or by means of interactive television and/or telecommunications (including voice, telephony and/or transfer of digital information or data) and/or interactive digital media, of a variety of retailers and advertising services, promotional services, business management services, business advisory services, administration services for businesses, accounting services, business administration services, business inspection, survey and appraisal services, brand creation services, business consultancy services, business data analysis services, business development services, business enquiry services, business evaluation services, business information agency services, business intelligence services, business management advisory services, business merger services, business planning services, business promotion services, business relocation services, business secretarial services, business services relating to the establishment of businesses, business services relating to the provision of sponsorship for television commercials, business services relating to the provision of sponsorship for television programmes, business statistical information services, buyer to supplier matching services, career advisory services, charitable services, namely business management and administration, charitable services, namely organising and conducting volunteer programmes and community service projects, clerical services, commercial information services provided by access to a computer database, commercial management advisory services, price comparison services, computerised business information services, computerised data storage services, consumer market information services, credit card registrability services, data base services for business, data storage services,

employee relocation services, employment agency services, employment bureau services, export-import agency services, franchising consultancy services, information services relating to advertising, information services relating to businesses, market assessment services, marketing advisory services, marketing agency services, market analysis studies, market forecasting, marketing information services, marketing studies, marketing, news clipping services, office equipment rental services, office management services, office services, outdoor advertising services, outdoor publicity services, press advertising services, price analysis services, product launch services, promotional services, sales promotion services, search engine marketing services, search engine optimisation services, search engine submission services, telephone marketing services [not selling], trade promotional services, incentive scheme services, product information services, analysis of business statistics, compilation of statistics, collection of commercial information, compilation of commercial information, provision of commercial information, loyalty card services, accountancy services, advertising analysis, advertisement and promotion of television services, magazine and newspaper subscription services, insurance services, information services relating to insurance, insurance advisory services, insurance arranging services, insurance brokers services, insurance claim assessments, warranty insurance services, warranties services, extended warranties for appliances, extended warranties for domestic electrical appliances, extended warranties for electrical appliances, financial services, advisory services relating to financial investment, advisory services relating to financial matters, advisory services relating to financial planning, financial brokerage services, card operated financial services, financial sponsorship services, computerised financial information services, computerised financial services, computerised information services relating to financial business, consultancy services relating to financial investment, consultation services relating to financial matters, economic financial research services, emergency financial services for travellers, financial evaluation services, financial advisory services, financial advisory services relating to assets management, financial appraisals services, asset management services, fund management services, financial credit services, financial data base services, financial transaction services, risk management services, provision of computerised financial information, financial information services for financial institutions provided via computer networks and satellite transmissions, financial information services for banks provided via computer networks and satellite transmissions, financial information retrieval services, financial information services, financial investigation services, financial investment advisory services, financial loan services, financial management advisory services, financial management, financial market information services, financial services for securing funds for others, banking services, advisory services relating to banking, bank account information services, bank card services, bankers clearing house services, banking services relating to travellers cheques, computerised information services relating to banking matters, home banking services, investment bank services, personal banking services, savings bank services, loan services, arrangement of loans, advisory services relating to loan services, financial loan services, instalment loan financing, credit card services, credit card advisory services, financial services relating to credit

cards, insurance services relating to credit cards, issuance of credit cards, processing credit card transactions for others, debit card services, pre-payment card services, e-cash services, real estate services, advisory services relating to real estate ownership, advisory services relating to real estate valuations, agency services for the leasing of real estate property, appraisal of real estate, arranging of letting of real estate, brokerage of real estate, evaluation of real estate, financial services for the purchase of real estate, real estate brokerage services, real estate investment services, real estate management services, financial services relating to real estate property and buildings, financing services relating to real estate development, investment advisory services relating to real estate, leasing of real estate, property evaluations services, property finance services, property insurance services, property investment services, property management services, property leasing services, real estate administration services, real estate selection and acquisition services, real estate leasing, real estate licensing, information and consultancy services relating to real estate, real estate agency services, maintenance services, repair services, advisory services for maintenance, charitable services, namely repair, maintenance and installation, computer maintenance services, diagnostic maintenance services for computers, film projector repair and maintenance services, information services relating to maintenance of security systems, machinery maintenance services, maintenance and repair of communications systems, maintenance and repair of computer hardware, maintenance and repair of computers, maintenance and repair of data communications networks, maintenance and repair of data processing apparatus, maintenance and repair of electrical apparatus, maintenance and repair of electronic apparatus, maintenance and repair of electronic installations, maintenance and repair of telecommunications apparatus, maintenance and repair services in respect of electrical control apparatus, maintenance and repair of utilities in buildings, maintenance and servicing of fire alarm systems, maintenance and servicing of security alarms, office machines and equipment installation, maintenance and repair, advisory services relating to the maintenance of buildings, property maintenance services, burglar alarm installation and repair, fire alarm installation and repair, information services relating to repair or installation, provided on-line from a computer database or the Internet, consultancy services relating to the repair of buildings, locksmith services, photographic equipment repair services, repair information services, vehicle breakdown repair services, installation services, advisory services relating to the installation of environmental control systems, advisory services relating to the maintenance and repair of rainwater installations, installations of security systems, central heating installation, computer installation services, consultancy services relating to installation of computers, consultancy services relating to installation of telecommunication apparatus, double glazing installation, electrical apparatus installation, electrical installation services, information services relating to installation of security systems, installation closed circuit television systems, installation fire detection systems, installation lighting systems, installation of audio electrical apparatus, installation of cable television systems, installation of cellular communications systems, installation of communications network apparatus/instruments, installation of computerised

information systems, installation of data processing apparatus, installation of data network apparatus, installation of office apparatus, installation of radio frequency communications systems, installation of radio telephone equipment, installation of safes, installation of stands for conferences/exhibitions/trade fairs, installation of telecommunications apparatus, kitchen equipment installation, machinery installation services, office equipment installation, office machine installation, maintenance, repair and installation services in relation to broadcast and/or telecommunications and/or communications reception apparatus and instruments, maintenance, repair and installation of telecommunications apparatus and equipment, maintenance, repair and installation of communications apparatus and equipment, maintenance, repair and installation of broadband apparatus and equipment, maintenance, repair and installation of apparatus for recording television programmes, maintenance, repair and installation of apparatus for recording, transmission, reproduction or reception of sound, images or audio visual content, maintenance, repair and installation of electrical and electronic apparatus for use in the reception of satellite, terrestrial or cable broadcasts, maintenance and repair of televisions, LCD, plasma screens and home cinema systems, maintenance, repair and installation of amplifiers, maintenance, repair and installation of speakers, maintenance, repair and installation of radios, maintenance, repair and installation of wireless audio and/or audio visual devices, maintenance, repair and installation of portable wireless audio and/or visual devices, maintenance and repair of remote controls, maintenance and repair of games controllers and wireless gaming controllers, maintenance, repair and installation of television receivers including a decoder, maintenance, repair and installation of set-top boxes, maintenance, repair and installation of digital set-top boxes, maintenance, repair and installation of high definition set top boxes, maintenance, repair and installation of personal video recorders, maintenance, repair and installation of set-top boxes for use in decoding and reception of satellite, terrestrial and cable broadcasts, maintenance, repair and installation of apparatus for decoding encoded signals including set top boxes for television reception, maintenance, repair and installation of set top box apparatus including a decoder and an interactive viewing guide, maintenance, repair and installation of set top box apparatus including a decoder and a recorder for recording television and audio programmes, maintenance, repair and installation of set top box apparatus including a decoder and a recorder programmable to transfer stored recordings to storage and also to delete the older recordings, maintenance, repair and installation of satellite dishes, maintenance, repair and installation of low noise blocks, maintenance, repair and installation of satellite meters, maintenance, repair and installation of telephones, maintenance and repair of PDAs, maintenance, repair and installation of telephone and radio modems, maintenance, repair and installation of set top boxes for use in decoding and reception of satellite, terrestrial cable and digital subscriber.

Class 39: Travel agency services; booking agency services; arranging, booking and reserving holidays, travel and tours by land, sea and air; information and advisory services relating to the aforesaid services; the packaging, storing and dispatch of goods; travel services; travel ticket reservation services; transport and storage; transport of persons and goods, in particular by road, rail, sea and air; portorage; transport of money and valuables; travel organization, booking and arrangement,

excursions and cruises; arrangement of transport services; organization, booking and arrangement of excursions, day trips and sightseeing tours; travel advice and escorting of travellers; leasing, booking and provision of aircraft; leasing, booking and provision of ships, in particular rowing and motor boats, sailing vessels and canoes; leasing, booking and providing of motor vehicles and bicycles, horses and diving equipment; packaging and storage of goods; parcel delivery; organization of trips, sightseeing tours, holiday camps and holidays; services and operation of a travel agency (included in this class), in particular consultancy and booking services for travel, provision of travel information, arrangement of transport services and travel; online information, reservation and booking services in the tourism and business travel sector (online travel agencies); transport services, including the provision of energy efficient transport services including car sharing, cycling, public transportation and mass transit transport systems; distribution of electricity; consultancy, information and advisory services relating to the aforesaid services; information relating to all the aforementioned services provided on-line from a computer database or via the Internet.

Class 41: Education and entertainment services; provision of training; provision of audio visual content relating to entertainment, education, training, sport and culture; education and entertainment services by means of radio, television, telephony, the Internet and on-line databases; hiring, rental and leasing of cine-films, videos, DVDs, sound recordings, sound recording apparatus, sports apparatus, television sets and video recorders, DVD recorders and radio recorders; production of films for television and cinema; providing on-line electronic publications (not downloadable); publication of magazines, books, texts and printed matter; publication of electronic books or journals on-line; provision of electronic publications; provision of recording studio facilities; live show production services; organising of sporting activities and competitions; box office services; production and presentation of programmes transmitted by television, the Internet or other telecommunication channels for the conduct of the interactive viewing, selection and purchase of goods; ticket reservation services relating to entertainment; production presentation and distribution of radio and television programmes, interactive television, interactive games, interactive entertainment and interactive competitions; production presentation and provision of competitions, contests, games, quizzes, studio entertainment and audience participation events; interactive television programme selection services for viewers; provision of interactive entertainment, news, cultural activities and sport for television viewers; interactive entertainment, educational, sporting and cultural services for television viewers; viewing guide services; viewing guide services facilitating the recordal and fixed term rental of programmes and movies; television programme recording services automatically initiated on the basis of customer viewing habits/preferences; video on demand and near video on demand entertainment, educational, sporting and cultural services; providing movies, videos and television programmes to viewers on demand and near video on demand; sporting and cultural activities; betting, gaming and gambling services; credit betting, gaming, gambling, lottery or bookmaking services; credit card betting, gaming, gambling, lottery or bookmaking services; organising and conducting lotteries; electronic betting, gaming, gambling, lottery or bookmaking services

provided by means of the Internet, or via a global computer network, or on-line from a computer network database, or via telephony including to mobile telephones, or via a television channel including a television channel distributed by satellite, terrestrial or cable television broadcast; arranging and conducting competitions for video game players and computer game players; pay to play games services; peer to peer interactive games and gaming services; interactive poker games and gaming including single and multi player gaming formats; presentation and production of poker competitions, tournaments, games and gaming; electronic publishing services; video taping and filming services; information and advisory services relating to the aforesaid services; provision of news, current affairs and sports information; news, current affairs and educational information services; information and advisory services relating to television and radio programmes, to education, recreation, entertainment, music and to sport; information and advisory services relating to television and radio programmes, to education, recreation, entertainment, music and to sport, provided on-line from a computer database or the Internet or to mobile telephones; factual information services relating to television and radio programmes, news and sport; instruction services; training services; leisure services; advisory services relating to entertainment; arranging conferences, seminars, symposiums or workshops; arranging exhibitions or festivals; booking agency services; cinema services; cinema studio services; distribution of radio programmes, television programmes, films, motion pictures, pre-recorded video tapes, audio and/or visual material, pre-recorded video cassettes, DVDs or pre-recorded video discs; production of radio programmes, television programmes, films, motion pictures, pre-recorded video tapes, audio and/or visual material, pre-recorded video cassettes, DVDs or pre-recorded video discs; editing of radio programmes, television programmes, films, motion pictures, pre-recorded video tapes, audio and/or visual material, pre-recorded video cassettes, DVDs or pre-recorded video discs; hire, leasing or rental of radio programmes, television programmes, films, motion pictures, pre-recorded video tapes, audio and/or visual material, pre-recorded video cassettes, DVDs or pre-recorded video discs; exhibition of radio programmes, television programmes, films, motion pictures, pre-recorded video tapes, audio and/or visual material, pre-recorded video cassettes, DVDs or pre-recorded video discs for entertainment, educational, sporting or cultural purposes; amusement park services with a theme of films, radio or television productions; organisation and management of amusement parks and theme parks; organisation of entertainment; preparation of radio programmes, television programmes, films, pre-recorded video tapes, DVDs, audio and/or visual material, pre-recorded video cassettes, pre-recorded video discs or motion pictures for distribution for transmission or broadcast by any means; provision of radio programmes, television programmes, films, audio and/or visual material or motion pictures online (not downloadable); publication of printed media and recordings; digital imaging services; dubbing; video tape editing; entertainment; film production; rental of motion pictures; movie studios; providing movie theatres facilities; production of shows; video film tape production; rental of audio equipment; rental of lighting apparatus for theatrical sets or television studios; rental of motion pictures; rental of movie projectors and accessories; rental of radio equipment; rental of televisions and television equipment; rental of sports equipment;

rental of video cameras; rental of video tapes; rental of video recorders; theatre productions; movie studio services; organising or hosting awards ceremonies; presentation of films; production of special effects for films; reservation services (included in this class) for sporting, scientific, political and cultural events; production of artwork for animated films; recording studio services; provision of video and audio content by sale and rental, whereby the consumer is entitled to single or multiple viewings of the media content via any form of playback device, all relating to entertainment, education, sports and culture; education and providing of training in connection with environmental protection, energy conservation and ecology and animal welfare; education and providing of training in connection with alternative energy sources, including wind power, hydroelectric power, tidal power, geothermal power, solar power, biomass, and biofuels; publication of instructional material and promotional material relating to environmental protection, energy conservation and ecology and animal welfare; arranging and conducting of seminars and workshops (training); establishing training programmes and training manuals; organising and conducting safety courses and educational courses; consultancy, information and advisory services relating to all the aforesaid services; advising or providing information in relation to the foregoing; information relating to all the aforementioned services provided on-line from a computer database or via the Internet.

ANNEX B

Class 16: Printed matter; publications, newspapers, magazines (periodicals), comics, journals (publications) and books; excluding publications distributed in-flight to airline travellers in connection with airline services and not being predominantly a television or cinema listings magazine.

Class 18: Trunks and travelling bags; umbrellas; handbags, backpacks, school bags, beach bags, travelling bags, suitcases, tote bags and wallets.

Class 35: Advertising and promotional services; customer relationship management, namely a marketing and public relation service; organisation, operation and supervision of sales and promotional incentive schemes; provision of product information and advice to prospective purchasers of home entertainment equipment, multi-media apparatus and instruments, television and radio equipment, audio visual equipment, set top boxes, personal video recorders, video recorders, computer games software, hardware and peripheral devices; rental of advertising space; television advertising commercials; preparation and presentation of audio visual displays for advertising purposes; dissemination of advertising matter; arranging and conducting of trade shows and exhibitions; advertisement and promotion of television services; compilation of business statistics and commercial information; marketing studies; marketing of radio programmes, television programmes, films, motion pictures, pre-recorded video tapes, audio and/or visual material, pre-recorded video cassettes, DVDs or pre-recorded video discs; the bringing together, for the benefit of others of a variety of goods namely computer software, computer hardware and peripheral devices, portable and/or hand-held devices or computers for playing electronic, computer or video games, Portable Wireless Audio Devices, home entertainment equipment, multi-media equipment, audio visual equipment, video and television equipment, set top boxes, personal video recorders, video recorders, television receivers, satellite reception equipment, satellite dishes, DVDs, and films, telephones, mobile telephones, accessories for mobile telephones, *watches*, luggage, footwear, headgear, clothing and accessories, crockery, sports equipment, fitness equipment enabling customers to conveniently view and purchase those goods including via an Internet website, an interactive television shopping channel, a digital television shopping channel; customer information and consultancy services for promotional, advertising and marketing purposes in relation to broadcast reception apparatus and instruments and parts and fittings therefor including cable, satellite and terrestrial, analogue or digital reception; the bringing together for the benefit of others, via an Internet website, an interactive television shopping channel, a digital television shopping channel and/or interactive digital media, of a variety of retailers and advertising services, promotional services, business management services, business advisory services, brand creation services, business consultancy services, business data analysis services, compilation of commercial information, provision of commercial information, advertisement and promotion of television services.

Class 41: Education and entertainment services; provision of training; provision of audio visual content relating to entertainment, education, training, sport and culture;

education and entertainment services by means of radio, television, telephony, the Internet and on-line databases; production of films for television and cinema; organising of sporting activities and competitions; ticket reservation services relating to entertainment; production presentation and distribution of radio and television programmes, interactive games, interactive entertainment and interactive competitions; production presentation and provision of competitions, contests, games, quizzes, studio entertainment and audience participation events; video on demand and near video on demand entertainment, educational, sporting and cultural services; providing movies, videos and television programmes to viewers on demand and near video on demand; sporting and cultural activities; betting, gaming and gambling services; credit betting, gaming, gambling, lottery or bookmaking services; credit card betting, gaming, gambling, lottery or bookmaking services; interactive poker games and gaming including single and multi player gaming formats; presentation and production of poker competitions, tournaments, games and gaming; news, current affairs and educational information services; distribution of radio programmes, television programmes, films, motion pictures, pre-recorded video tapes, audio and/or visual material, pre-recorded video cassettes, DVDs or pre-recorded video discs; production of radio programmes, television programmes, films, motion pictures, pre-recorded video tapes, audio and/or visual material, pre-recorded video cassettes, DVDs or pre-recorded video discs; provision of radio programmes, television programmes, films, audio and/or visual material or motion pictures online (not downloadable); entertainment; film production; production of shows; organising or hosting awards ceremonies; education and providing of training in connection with environmental protection, energy conservation and ecology and animal welfare; consultancy, information and advisory services relating to all the aforesaid services.