

**O/890/21**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF TRADE MARK APPLICATION NO. 3499640  
BY GOT YOU COVERED LIMITED**

**TO REGISTER A SERIES OF SIX TRADE MARKS  
IN CLASSES 35, 36, 41 & 45**

**AND**

**IN THE MATTER OF THE OPPOSITION THERETO  
UNDER NO. 421699 BY  
LEGAL & GENERAL GROUP PLC**

## BACKGROUND AND PLEADINGS

1. Got You Covered (“the applicant”) applied to register the following six trade marks as a series in the United Kingdom on 11 June 2020:



2. The application was accepted and published on 10 July 2020 in respect of the services listed in Annex A to this decision.

3. On 9 October 2020, the application was opposed by Legal & General Group plc (“the opponent”). The opposition is based on sections 5(2)(b), 5(3) and 5(4)(a) of the Trade Marks Act 1994 (“the Act”) and concerns all the services in the application.

4. Under sections 5(2)(b) and 5(3) of the Act, the opponent is relying on UKTM No. 3308522, which is a series of two trade marks shown below. It was applied for on 3 May 2018 and registered on 28 December 2018.



5. Under section 5(2)(b) of the Act, the opponent is relying on all the goods and services for which the series of marks stands registered. These are listed in Annex B to this decision. It claims that the earlier and contested marks are similar. In particular, it asserts that the umbrella device is the dominant and distinctive element of the contested marks and shares a high degree of visual similarity with the earlier marks. It also claims that the contested services are identical or highly similar to the services protected by the earlier marks, and so there is a likelihood of confusion on the part of the public.

6. Under section 5(3) of the Act, the opponent claims that the earlier series of marks has a reputation for *Insurance services* in Class 36, and that the relevant section of the public is likely to make a connection between them. It asserts that damage would occur in at least one of the following ways:

- Use of the contested mark for the contested services would unfairly take advantage of the reputation accrued by the opponent in the earlier series of marks;
- It would cause detriment to the repute of the earlier series of marks as the opponent would not be able to control the manner in which the applicant were to use the mark, which may be adverse to the goodwill and reputation of the opponent, and/or the opponent would have no control over the quality of the services provided by the applicant; and/or
- It would cause detriment to the distinctive character of the earlier series of marks by reducing the capacity of the opponent to distinguish its services from those of another.

7. Under section 5(4)(a) of the Act, the opponent claims to have generated a significant amount of goodwill in the UK through its use and promotion of the signs shown in

paragraph 4 above since March 1974 for *Insurance services*. It asserts that the average consumer is likely to think that any services provided by the applicant under the contested mark emanate from the opponent and/or are provided with its consent, and this misrepresentation would cause damage to the opponent's goodwill and reputation.

8. The applicant filed a defence and counterstatement denying the claims made. It noted that its application was being opposed by two separate global organisations, submitting that "The very fact that two businesses, that also trade in the same industry as ourselves, are challenging our use of the umbrella symbol clearly proves it is not a symbol unique to those businesses but a widely used portrayal of protection."<sup>1</sup> It claims that the contested mark "differs noticeably" from the earlier series of marks and that the presence of an umbrella is not sufficient for there to be a likelihood of confusion. It also asserts that it provides different services (insurance brokerage) from those of the opponent (insurance sold directly to consumers), and that the lines of business are not the same.

9. The applicant claims that the opponent appears to use its mark exclusively in the colour combination shown in the first mark of the series, and alongside the words "Legal & General", and therefore it would not be able to demonstrate the requisite reputation under section 5(3). It further claims that as there is "no distinctive resemblance" between the marks, the opponent would also be unable to establish that there would be any damage to it.

10. The applicant makes no specific comments on the opponent's section 5(4)(a) claim.

11. The matter came to be heard by me by video link on 27 September 2021. The opponent was represented by Guy Hollingworth of Counsel, instructed by CMS Cameron McKenna Nabarro Olswang LLP. The applicant was represented by Geoffrey Pritchard of Counsel, instructed by Bird & Bird LLP.

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<sup>1</sup> The other opposition was brought by The Travelers Indemnity Company under opposition no. 421737. Neither party requested a hearing and so that decision (BL O/797/21) was taken from the papers and issued on 25 October 2021.

## **Evidence**

12. The opponent's evidence in chief comes in the form of a witness statement from Tamara Bates, Interim Group Brand Director for Legal & General Group Plc, dated 11 March 2021.<sup>2</sup> The purpose of the witness statement is to provide evidence of the distinctiveness and reputation of the earlier marks and the goodwill associated with their use.

13. The applicant's evidence comes from Robert Leigh, Chief Executive Officer and founder of Got You Covered Limited, which was incorporated in 2016. His witness statement is dated 11 May 2021. His evidence goes to the origin of the contested series of marks, the use that it has made of it, and the use of umbrellas more generally in the promotion of insurance products and services.<sup>3</sup> He also states that he is not aware of any instances of confusion between the marks. Furthermore, he notes that from 2017 Legal & General was on the panel of insurers whose products are offered by the applicant, and that they did not complain about the contested mark until 2019. This point was not pursued at the hearing.

14. The opponent's evidence in reply comes from Ms Bates and is dated 8 July 2021. She provides a copy of a letter from the opponent's representatives responding to earlier correspondence from the applicant relating to the use of umbrellas in the promotion of insurance products and services.<sup>4</sup> Also attached is a collection of negative reviews of the applicant's services.<sup>5</sup>

15. I shall return to the evidence in more detail where appropriate in my decision.

## **DECISION**

16. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 requires tribunals to apply EU-derived national law in

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<sup>2</sup> By the time of her second witness statement, she had been confirmed in the role.

<sup>3</sup> See, in particular, Exhibit RJL-4.

<sup>4</sup> Exhibit TB-2.

<sup>5</sup> Exhibit TB-3.

accordance with EU law as it stood at the end of the transition period. The provisions of the Trade Marks Act relied on in these proceedings are derived from an EU Directive. This is why this decision continues to make reference to the trade mark case law of EU courts.

### **Section 5(2)(b)**

17. Section 5(2)(b) of the Act is as follows:

“A trade mark shall not be registered if because –

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

(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.”

18. An “earlier trade mark” is defined in section 6(1) of the Act as:

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

(b) a European Union trade mark or international trade mark (EC) which has a valid claim to seniority from an earlier registered trade mark or international trade mark (UK) even where the earlier trade mark has been surrendered or its registration has expired,

(ba) a registered trade mark or international trade mark (UK) which –

(i) has been converted from a European Union trade mark or international trade mark (EC) which itself had a valid claim to seniority within paragraph (b) from an earlier trade mark, and

(ii) accordingly has the same claim to seniority, or

(c) a trade mark which, at the date of application for registration of the trade mark in question or (where appropriate) of the priority claimed in respect of the application, was entitled to protection under the Paris Convention or the WTO agreement as a well known trade mark.”

19. The registration upon which the opponent relies qualifies as an earlier trade mark under the above provision. As the series of marks was registered within the five years before the date on which the application for the contested mark was made, it is not subject to proof of use and the opponent is therefore entitled to rely on all the goods and services for which the series of marks stands registered.

20. In considering the opposition under this section, I am guided by the following principles, gleaned from the decisions of the Court of Justice of 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 BV* (Case C-342/97), *Marca Mode CV v Adidas AG & Adidas Benelux BV* (Case C-425/98), *Matratzen Concord GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (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-334/05 P) and *Bimbo SA v OHIM* (Case C-519/12 P):

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. The average consumer is deemed to be

reasonably well informed and reasonably circumspect and observant, but someone who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them they have kept in their 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 greater degree of similarity between the marks and vice versa;

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

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

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



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

### ***Comparison of services***

21. It is settled case law that I must make my comparison of the goods and services on the basis of all relevant factors. These may include the nature of the goods and services, their purpose, their users and method of use, the trade channels through which they reach the market, and whether they are in competition with each other or are complementary: see *Canon*, paragraph 23, and *British Sugar Plc v James Robertson & Sons Limited (TREAT Trade Mark)* [1996] RPC 281 at [296]. Goods and services are complementary when

“... there is a close connection between them in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods lies with the same undertaking.”<sup>6</sup>

22. Mr Pritchard admitted that, along with all services in Classes 36 and 41, the following contested services were identical to the opponent’s services:

#### *Class 35*

*Administrative services relating to dental health insurance; Administrative services relating to referrals for insurance agents; Business management of insurance agencies and brokers on an outsourcing basis; Promotion of financial and insurance services, on behalf of third parties; Promotion of insurance services, on behalf of third parties.*

#### *Class 45*

*Legal services relating to social insurance claims.*

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<sup>6</sup> *Boston Scientific Ltd v OHIM*, Case T-325/06, paragraph 82.

23. That leaves the following contested services to be compared to the opponent's goods and services:

Class 35

*The bringing together, for the benefit of others, of a variety of insurance services, enabling consumers to conveniently compare and purchase those services.*<sup>7</sup>

Class 45

*Fraud detection services in the field of health care insurance; Investigation services related to insurance claims.*

24. I shall deal with the Class 35 services first. Mr Hollingworth submitted that they were highly similar to the opponent's services, while Mr Pritchard's view was that the similarity was at a low level.

25. I agree with Mr Hollingworth that they share the same users and trade channels as the opponent's *Insurance* services, but am not persuaded that the purposes are the same. The opponent's services are intended to protect the consumer against the risk of particular events occurring, while the aim of the applicant's services is to enable the consumer to compare a range of different insurance services and select the one that best meets their needs. Mr Hollingworth also submitted that what he described as the "retail of insurance services" is dependent upon the provision of said insurance services and so there is complementarity. It is possible that the average consumer would think that the retail services are provided by the same undertaking as the insurance services. There is a degree of competition here: the consumer may choose to buy directly from an insurance provider or they may prefer to use a comparison service. Taking all the factors together, I find that there is a medium degree of similarity between the opponent's *Insurance* and the applicant's *bringing together, for the benefit of others, of a variety of insurance services, enabling consumers to conveniently compare and purchase those services*.

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<sup>7</sup> This appears twice in the contested specification.

26. Turning now to the Class 45 services listed in paragraph 23 above, I note that Mr Hollingworth submitted that:

“The fraud and investigation services related to insurance in Cl. 45 are very closely related to the legal services applied for in the same class. To the extent that they are not quite identical to the *Legal services* covered by the L&G Umbrella registration, they are materially the same as, or at least a part of, the *consultancy and advisory services in relation to* the legal services in Cl. 45”.<sup>8</sup>

27. Mr Pritchard submitted that these services were dissimilar or, at the most, similar to a very low degree to the opponent’s services.

28. I agree with Mr Hollingworth. In my view, *Fraud detection services in the field of health care insurance* and *Investigation services related to insurance claims* are encompassed by the broader category of *Consultancy [and] advisory ... services in relation to* legal services relating to insurance. They would be supplied to an insurance company desiring to take a robust legal approach to suspected fraud or other wrongdoing. As the General Court (“GC”) held in *Gérard Meric v OHIM*, Case T-133/05, goods (and, by analogy, services) may be considered identical when services covered by the earlier mark are designated by a broader term that includes the services designated by the contested mark.<sup>9</sup> On this basis, I find that the services are identical. If, however, I am wrong in this, I consider that the services are similar to at least a medium degree on the basis of shared users, similar nature and a degree of similarity in their purpose, all being directed towards resolving legal issues in relation to insurance.

### ***Average consumer and the purchasing process***

29. In *Hearst Holdings Inc & Anor v A.V.E.L.A. Inc & Ors* [2014] EWHC 439 (Ch), Birss J (as he then was) described the average consumer in these terms:

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<sup>8</sup> Opponent’s skeleton argument, paragraph 24(c).

<sup>9</sup> See paragraph 29.

“The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The word ‘average’ denotes that the person is typical. The term ‘average’ does not denote some form of numerical mean, mode or median.”<sup>10</sup>

30. Both Mr Hollingworth and Mr Pritchard agreed that the average consumer for most of the services would be a member of the public, but differed on the level of attention that would be paid during the purchasing process. Mr Hollingworth considered that the average consumer would pay a medium degree of attention, although he noted that he could accept that it might be higher than medium, without reaching a high level. He went on:

“If one thinks about the sorts of insurance transactions that consumers routinely have to make, some of it is mandatory – car insurance or motorbike insurance – and, frankly, it is a bit of a hassle and people are likely to do it fairly swiftly; they just want to get insurance so they can tick the box. I would say one does not put a very high degree of attention into that. You just want a cheap quote and something that ticks the box and other types as well – home insurance – these are things you have to go through every year. It is a bit of a pain, but you have to do it and, yes, you pay more attention than when you pick a tin off the shelf, but it is not a particularly high level of attention.”<sup>11</sup>

31. Mr Pritchard submitted that the average consumer would pay a high degree of attention, as the purchase of insurance was a financial decision based on trust, and that the necessity of a transaction had no relevance to the level of attention that would be paid to it. He referred me to the decision of the European Intellectual Property Office (EUIPO) Grand Board of Appeal of 26 March 2021 in *Advinans AB v ALBINGIA*,

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<sup>10</sup> Paragraph 60.

<sup>11</sup> Transcript, page 18.

*société anonyme*, R551/2018-G, which he described as persuasive. In paragraph 38 of that decision, the Grand Board said that with regard to Class 36 services

“The general public displays a high level of attention to the services at stake (19/09/2012, T-220/11, *F@ir Credit*, EU:T:2012:444, § 21). Normally, the general public will only purchase the services after an in-depth analysis and after having received written offers.”

32. In reply, Mr Hollingworth submitted that the case law relied on by Mr Pritchard would not have been binding on the Tribunal, even before the UK left the European Union, and that it mischaracterised an earlier decision of the GC. I shall therefore make my own assessment. While some purchases are indeed relatively routine, there are potential financial consequences if the wrong choice is made. Both these factors point in opposite directions: the former towards a relatively lower level of attention, the latter towards a higher. I find that the average consumer would be paying a degree of attention that is higher than medium when purchasing insurance services.

33. I turn now to *The bringing together, for the benefit of others, of a variety of insurance services, enabling consumers to conveniently compare and purchase those services*. These services are likely to be used on the internet, with the technology allowing fast and detailed comparison between insurance offerings. In my view, the average consumer will pay a medium degree of attention. They will be interested in the range of services available and the prices offered. However, the attention level would not be as high as that paid when selecting the insurance services themselves.

34. I will also consider services aimed at professionals and businesses. In response to my question, Mr Hollingworth accepted that some of the services would fall into this category, but submitted that little turned on this as the opponent’s earlier mark covered *Insurance* generally. However, in the case of the applicant’s Class 45 services, the comparison is not with the general term *Insurance* but with *Consultancy and advisory services in relation to Legal services relating to insurance*. I cannot see that the average consumer for these services would be a member of the general public. To my mind, they would be an insurance company paying a high degree of attention, given the potential legal consequences of the choice.

35. For both groups of services, the consumer would see the marks in printed material, such as brochures or advertisements, or on websites. The purchasing process would, in my view, be largely visual. I do not discount the use of word-of-mouth recommendations or discussions with insurance brokers, so the marks could also be heard by the consumer.

***Distinctiveness of the earlier series of marks***

36. In *Lloyd Schuhfabrik Meyer*, the CJEU stated that:

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

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

37. In his skeleton argument, Mr Hollingworth submitted that “The earlier mark is enormously famous and thus has an enhanced distinctive character, which increases

the likelihood of confusion.”<sup>12</sup> I shall first consider the level of inherent distinctive character of the earlier mark, before examining whether the evidence does demonstrate that the distinctive character of the earlier series of marks has been enhanced. I deal with this at some length, as these questions were the main focus of the oral submissions made at the hearing.

*Inherent distinctiveness of the earlier mark*

38. Registered trade marks possess varying degrees of inherent distinctive character from the very low, because they are suggestive of, or allude to, a characteristic of the goods or services, to those with high inherent distinctive character, such as invented words which have no allusive qualities.

39. I see no reason to depart from the view of the hearing officer in the other opposition to this mark that, as dictionary words that are not descriptive or allusive are said to have a medium degree of inherent distinctive character, the same applies in the case of simple representations of common objects. She also noted that an umbrella is likely to be understood as a metaphor for protection, a view with which I agree. It therefore alludes to the main purpose for purchasing insurance services, which would be expected to result in a level of distinctiveness towards the lower end of the spectrum. However, I must also take into account the colour arrangement. Even in the second mark in the series, different shades appear. In my view, this increases the inherent distinctiveness of the mark slightly to a medium level.

40. I shall now consider whether the applicant’s evidence and submissions alter this preliminary assessment. Mr Pritchard submitted that the concept of the umbrella was generic for insurance. If this should be the case, the distinctiveness of the earlier series of marks would turn on the precise depiction of the umbrella. Mr Pritchard suggested that the penumbra of protection of the earlier mark was “really rather small”.<sup>13</sup> He also submitted that the opponent did not dispute that umbrellas were generic in the financial services sector and drew my attention to paragraph 3.1 of Ms Bates’s second witness

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<sup>12</sup> Paragraph 25.

<sup>13</sup> Transcript, page 29.

statement where she quotes from a letter sent by the opponent's lawyers to the applicant on 9 April 2019:

"The majority of the examples enclosed with your letter show the use of umbrella imagery as website icons, graphics or general illustration rather than as part of any trade mark. In the financial services industry, the use of an umbrella device as the dominant element of a corporate logo would be primarily associated with Legal & General unless that device was visually very different from the Umbrella Logo (which your client's logo is not)."<sup>14</sup>

41. I do not interpret this as an admission on the part of the opponent that the umbrella is a generic image for insurance services.

42. It is now convenient to turn to the evidence of Mr Leigh. In his witness statement, he said:

"I incorporated an umbrella as part of our logo because the notion of insurance is synonymous with 'protection' and 'cover' for rainy days, i.e. times of need or trouble in anticipation of which individuals and businesses purchase insurance cover. I was just starting the Got You Covered business at the time and I therefore set out to design a logo which would immediately communicate to consumers that we were in the business of providing insurance. I included an umbrella as part of the logo because the use of umbrella imagery was at that time, and remains, so widespread in the insurance industry."<sup>15</sup>

43. Exhibit R JL-3 contains details of 44 third-party trade mark registrations from a range of intellectual property offices (such as the Mexican, Norwegian and Romanian offices) that include an umbrella device and cover services in Class 36. There is no evidence that any of these are used on the UK market. "State of the register" evidence does not in itself show that the distinctiveness of an umbrella device for insurance

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<sup>14</sup> The letter can be found in Exhibit TB-2 to the second witness statement.

<sup>15</sup> Paragraph 6.



services has been weakened: see *Zero Industry Srl v OHIM*, Case T-400/06, paragraph 73.

44. Exhibit RJL-4 contains screenshots dated between 2019 and 2021 which Mr Leigh states show use of an umbrella device by third parties within the UK insurance industry. Seventeen different sources are shown, but only five of these come from before the relevant date of 11 June 2020. I reproduce these below:

i.



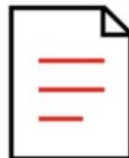
ii.

Why choose Hiscox



Immediate insurance coverage

Get your tailored quote online today and you'll receive your proof of insurance in minutes.



Policies tailored to protect you

We'll build you a bespoke policy for the unique risks you face, whether at home, at work or further afield.



Award-winning claims service

Make a claim with our **award-winning** specialists, get peace of mind when you need it most.

iii.



iv.

The image shows the top section of the Burnetts website. On the left is the "burnetts" logo with a red and blue arrow icon. To the right is a navigation menu with links: "WHERE TO BUY", "OUR SOLUTIONS", "ABOUT", "CONTACT", and a search icon. Below the navigation are two purple circular icons. The first icon shows a person in a suit, with the text: "We recognise that business people need easy access to reference material on our products that are relevant to them." The second icon shows an umbrella, with the text: "We aim to provide insurance brokers with clear information on the insurance products that they we supply."

v.

A screenshot of a web browser displaying the COVER website. The page features a main article titled "Paradigm Protect adds Scottish Widows protect to panel" under the "Critical illness" category. The article is by Fiona Murphy and dated 08 January 2016. It includes a blue umbrella icon and a photo of a man. The article text states: "Paradigm Protect has announced the addition of Scottish Widows Protect to its protection panel." The website header includes the "COVER" logo, navigation links, and a search bar. The footer contains a cookie consent message.

45. Mr Pritchard drew my attention to some other examples, but these are after the relevant date.

46. Mr Hollingworth submitted that there was no indication of the extent to which the image of an umbrella had been used by these third parties, most of whom, he argued, seemed to be quite small. Furthermore, in many cases, the umbrella was not being used in a trade mark sense.

47. The evidence in my view falls short of showing that the use of umbrellas for financial services in general and insurance services in particular is so widespread as to have affected the inherent distinctive character of the earlier mark, which I find to be at a medium level.

*Has the inherent distinctiveness of the earlier mark been enhanced through use?*

48. Mr Pritchard submitted that the burden lay upon the opponent to prove the distinctiveness of the earlier mark and drew my attention to Section 11-086 of *Kerly's Law of Trade Marks and Trade Names*, 16<sup>th</sup> edition:

“Use of a mark does not prove it is distinctive. To have any relevance to how the average consumer would view it, the use must be as an indication of origin and, if part of the mark is descriptive, the use must be such as to educate the average consumer that the composite mark is playing the role of a trade mark. The burden rests on the party seeking to establish enhanced or acquired distinctiveness to show that the average consumer perceives goods or services as originating from a particular undertaking because of the mark.”

49. I shall now summarise the evidence adduced by the opponent to show enhanced distinctiveness.

50. Legal & General was founded in 1836 to offer life insurance. It now provides a range of financial products, life insurance and investments, and has also provided household insurance. This latter business was sold in 2019 to Allianz, which was

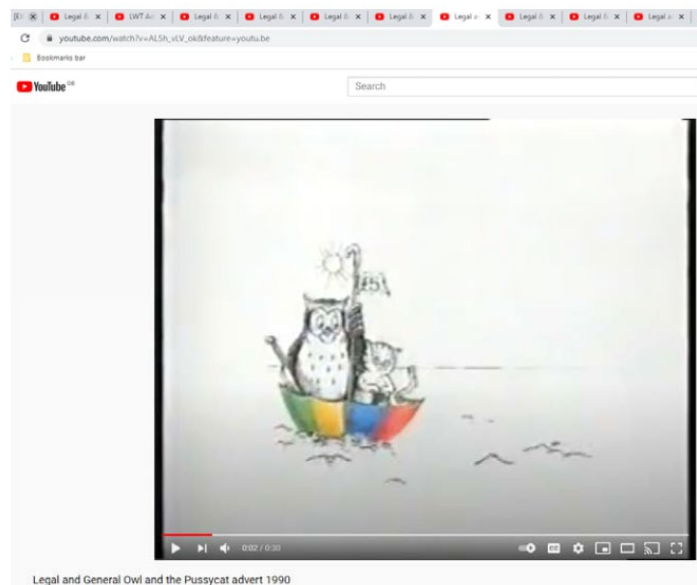
granted a licence to use the umbrella logo for a period of time. In her first witness statement, Ms Bates says that in 2018 Legal & General had over 9.5 million customers in the UK for its life assurance, pensions, investments and general insurance products.

51. The table below shows advertising spend for the years 2017-2020:<sup>16</sup>

Year	Advertising Spend
2017	£32 million
2018	£49.8 million
2019	£39 million
2020	£39.3 million

52. Ms Bates also says that the opponent has been using an umbrella in its advertising since 1974 as the focal point of the brand.<sup>17</sup> Since 1980, a brightly coloured umbrella has featured as a prop in most of the TV advertising: see, for example:<sup>18</sup>

1990:



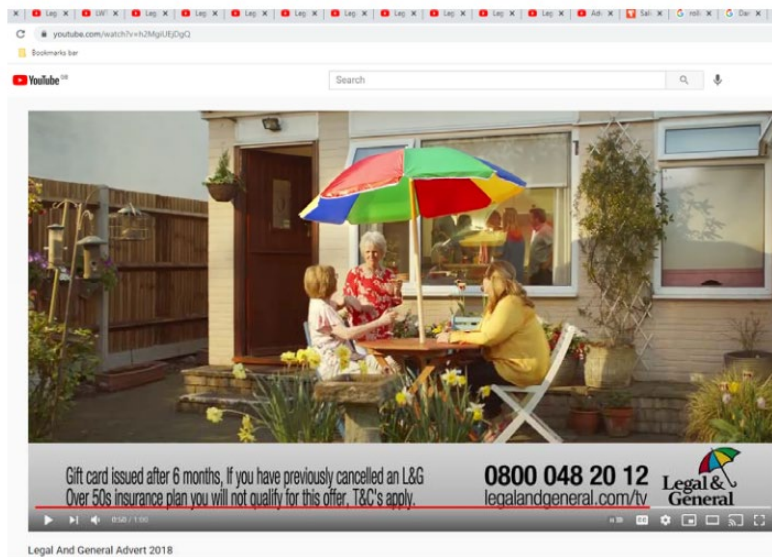
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<sup>16</sup> Paragraph 8.1

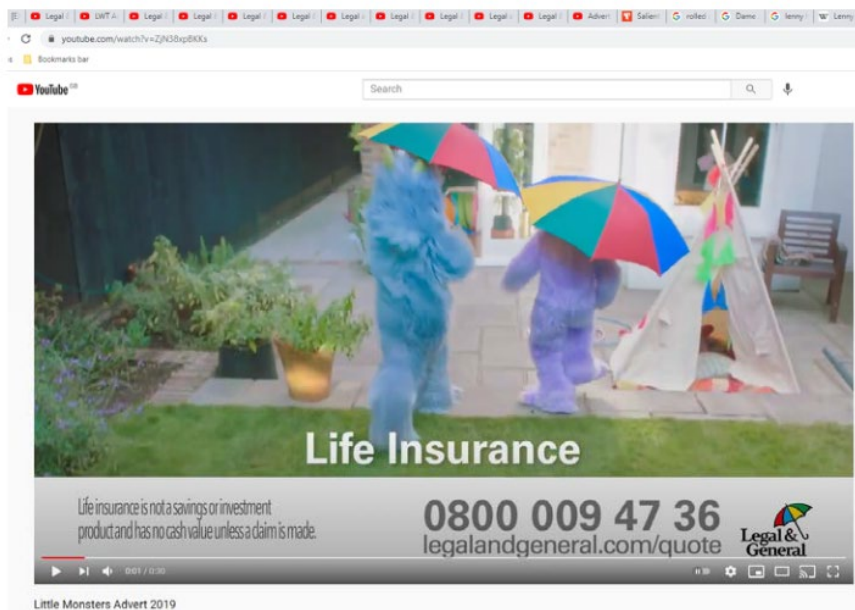
<sup>17</sup> Paragraph 5.1

<sup>18</sup> §9.

2018:



2019:



53. In 1994, a television advertisement promoting the opponent's savings products featured a narration by Sir Lenny Henry that included the lines "Every day, thousands of savers receive a cheque from Legal & General" and "This ray of sunshine was brought to you by the big company with the umbrella".<sup>19</sup>

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<sup>19</sup> Paragraph 9.6.

54. Legal & General also sponsored regional weather forecasts for the ITV network between 1991 and 1994.<sup>20</sup> The umbrella device was shown during these broadcasts.

55. The evidence also includes examples of print adverts that appeared in widely circulated national publications such as the *Daily Mail*, *Daily Express* and *Daily Telegraph*.<sup>21</sup> Mr Hollingworth drew my attention to an advert for life insurance showing a child holding a brightly coloured umbrella.<sup>22</sup> This appeared in the *Daily Telegraph* in 2020, but it is not clear whether this was before or after the relevant date of 11 June 2020.

56. I am satisfied that the evidence shows that a significant proportion of the public would have been exposed to the L&G umbrella over a lengthy period of time, but this is not the end of the matter. Mr Pritchard submitted:

“We do not dispute and could not dispute that L&G are an enormous insurance company and they have a huge turnover nor in fact that they have used the L&G umbrella extensively. We accept all of that. We only part company with the manner in which the L&G umbrella has been used. We say it is clear when you go over the evidence that the way in which it is used, the primary way in which it is used, the trade mark in which it is used, is as a composite mark with the words Legal & General. And that is not good enough in the circumstances of the rest of the evidence.”<sup>23</sup>

57. Mr Hollingworth submitted that the evidence showed that the umbrella had been heavily emphasised during the promotion of the opponent’s services and, in any case, the distinctiveness of a sign could be established through use with another mark.<sup>24</sup>

58. The evidence shows long-standing use of the umbrella as a key element of the opponent’s brand identity. The appearance in television and print advertising in particular has, in my view, served to educate the public to associate the umbrella with

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<sup>20</sup> Paragraph 9.7.

<sup>21</sup> See, for example, Exhibit TB-12.

<sup>22</sup> Exhibit TB-11.

<sup>23</sup> Transcript, page 37.

<sup>24</sup> *Société des Produits Nestlé SA v Mars UK Ltd*, Case C-353/03.

the opponent. I have already referred to the significant sums of money spent on marketing and the large numbers of UK customers. I find that the distinctive character of the earlier mark has been enhanced to a high degree for insurance. There is less evidence of the use of the mark in connection with pensions and investments, so I consider that the distinctive character of the mark has not been enhanced to the same extent for these products.

59. I make my findings without relying on the brand awareness surveys that the opponent has adduced in evidence.<sup>25</sup> These were studies carried out for the opponent prior to the commencement of these proceedings. One appears to show that the addition of the umbrella device to a disguised company name or piece of advertising material increases the likelihood of a participant identifying the opponent. Both Mr Hollingworth and Mr Pritchard made thorough submissions on the weight I should attach to this evidence and even whether it was the type of evidence criticised by the Court of Appeal in *Interflora Inc v Marks & Spencer Plc* [2013] EWCA Civ 319. Mr Hollingworth did urge me not to treat them as determinative, describing them instead as confirming what the rest of the evidence showed, namely that the umbrella was a valuable brand asset. In the light of my findings on the basis of the rest of the evidence, I need say no more about the surveys.

### ***Comparison of the marks***

60. It is clear from *SABEL* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The CJEU stated in *Bimbo* that:

“... it is necessary to ascertain in each individual case, the overall impression made on the target public by the sign for which the registration is sought, by means of, inter alia, an analysis of the components of a sign



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<sup>25</sup> Exhibits TB-14 and TB-15.

and of their relative weight in the perception of the target public, and then, in the light of that overall impression and all factors relevant to the circumstances of the case, to assess the likelihood of confusion.”<sup>26</sup>

61. It would be wrong, therefore, artificially to dissect the marks, although it is necessary to take into account their distinctive and dominant components and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions created by the marks.

62. The respective marks are shown below:

Earlier marks	Contested marks
	

<sup>26</sup> Paragraph 34.



63. Each of the earlier marks in the series shows a single golfing-style umbrella, shown at a 45% angle. In the first, the canopy is depicted in four bright colours (red, blue, yellow and green), while the second mark is monochrome. The overall impression of the earlier marks rests in the image of the umbrella.

64. The parties disagreed on the overall impression of the contested marks. Mr Hollingworth submitted that the umbrella was the dominant and distinctive element of the contested marks, as the other elements were descriptive. Mr Pritchard submitted that the words were dominant, as the consumer has been educated to see umbrellas as representing the idea of cover. I have already dealt with this point in paragraphs 40-47 above. The umbrella is shown with a central panel in red and two outer panels in black, at the same angle as the umbrella in the earlier mark, but with the canopy at top right rather than top left. The handle of the umbrella forms the U in the words “GOT YOU COVERED”.

65. Mr Hollingworth submitted that the words “GOT YOU COVERED”

“... have been used descriptively by the applicant. It says in its own advertising: ‘Insurance? Got you covered.’”<sup>27</sup>

66. Mr Pritchard, on the other hand, submitted that:

“The use of the words conceptually may have a very large descriptive element, but it is not a normal use of English. Got You Covered is not a proper use of English and in the context of this it is Got You Covered with an umbrella with a U at the bottom. In those circumstances, in my submission, a large part of the concept of the mark must reside in the words as well. If that is right, even if my learned friend is right and that concept is largely descriptive, which I submit is wrong, but even if he is right on that, that is a concept that does not go to the L&G mark. It is a concept – coverage – that goes to the generic proposition.”<sup>28</sup>

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<sup>27</sup> Transcript, page 19.

<sup>28</sup> Transcript, page 31.

67. In my view “GOT YOU COVERED” alludes to the purpose of the services. The eye of the average consumer tends to be drawn first to words, but given the colour in the umbrella and its size I find that these two elements are equally dominant in the overall impression of the mark. They have independent distinctive roles.

68. All the marks except the first of the series contain additional text (“BUSINESS”, “HOUSEHOLD”, “MOTOR”, “VAN & TRUCK” and “TAXI”) and simple images depicting the subject matter of those words. These describe types of insurance. I agree with Mr Hollingworth that these are descriptive and make no contribution to the overall impression of the contested marks. I shall therefore proceed with my comparison on the basis of the first mark in the series.

#### *Visual comparison*

69. While both marks contain an umbrella, the presence of text in the contested mark is an obvious point of visual difference. Turning to the umbrellas, both are presented at a 45° angle, although the canopy in the earlier mark is at top left, while in the contested mark it is at top right. Both have a curved handle. While there are similarities, there are also differences. The earlier mark has four panels, while the contested has three and the colour arrangements are different. Mr Hollingworth submitted that the second mark of the earlier series was in black and white and hence colour-neutral. Nevertheless, I do not consider that fair and notional use of this mark would extend to a three-way segmentation, with black on the outside and red in the middle. The visual similarity of the marks is at a low to medium level.

#### *Aural comparison*

70. The earlier mark has no words that can be articulated. Mr Hollingworth submitted that this means that aural similarity does not arise and referred me to *Eugenia Mocek, Jadwiga Wenta KAJMAN Firma Handlowo Usługowo-Produkcyjna v OHIM*, Case T-364/13:

“45. In that regard, it must be pointed out, as the applicant rightly does, that a phonetic comparison is not relevant in the examination of the similarity of a figurative mark without word elements with another mark. ...

46. It follows, in the present case, that it cannot be concluded that there is either a phonetic similarity or a phonetic dissimilarity between the marks at issue given that the earlier mark is a figurative mark lacking word elements.”

71. Mr Pritchard submitted that this case did not say that the aural factor would be neutral, rather that the opponent has no aural similarity to assist it. Either way, there is no aural comparison for me to make.

#### *Conceptual comparison*

72. An umbrella provides protection against the rain. This concept is shared by both marks. The words in the contested mark also convey the message of protection. I find that the marks are conceptually identical, but if I am wrong in this, I would find them to be conceptually highly similar.

#### ***Conclusions on likelihood of confusion***

73. There is no scientific formula to apply in determining whether there is a likelihood of confusion. It is a global assessment where a number of factors need to be borne in mind. I must also take account of the interdependency principle, i.e. that a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective services or vice versa. I keep in mind that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them they have in their mind.

74. There are two types of confusion: direct and indirect. In *L.A. Sugar Limited v Back Beat Inc*, BL O/375/10, Mr Iain Purvis QC, sitting as the Appointed Person, explained that:

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

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

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

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

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

75. In *Liverpool Gin Distillery Limited & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 1207, Arnold LJ commented that:

“This is a helpful explanation of the concept of indirect confusion, which has frequently been cited subsequently, but as Mr Purvis made clear it was not intended to be an exhaustive definition.”<sup>29</sup>

76. As I have found that the contested mark comprises elements which play independent distinctive roles, I must consider the application of the CJEU’s judgment in *Medion* and subsequent case law. In *Whyte and Mackay Ltd v Origin Wine UK Ltd & Anor* [2015] EWHC 1271 (Ch), Arnold J (as he then was) said:

“18. The judgment in *Bimbo* confirms that the principle established in *Medion v Thomson* is not confined to the situation where the composite trade mark for which registration is sought contains an element which is identical to an earlier trade mark, but extends to the situation where the composite mark contains an element which is similar to the earlier mark. More importantly for present purposes, it also confirms three other points.

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

20. The second point is that this principle can only apply in circumstances where the average consumer would perceive the relevant part of the composite mark to have distinctive significance independently of the whole.

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<sup>29</sup> Paragraph 12.

It does not apply where the average consumer would perceive the composite mark as a unit having a different meaning to the meaning of the separate components. That includes the situation where the meaning of one of the components is qualified by another component, as with a surname and a first name (e.g. BECKER and BARBARA BECKER).

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

77. My earlier findings are as follows:

- All the applied-for services were identical to the opponent’s services, with the exception of *The bringing together, for the benefit of others, of a variety of insurance services, enabling consumers to conveniently compare and purchase those services*, where I found a medium degree of similarity;
- Where the average consumer is a member of the general public they would be paying a higher than medium or a medium degree of attention;
- Where the services were aimed at industry professionals, the average consumer would be paying a high degree of attention;
- The distinctive character of the earlier series of marks had been enhanced to a high degree for insurance services, and a level between medium and high for other financial services; and
- The marks are visually similar to a low to medium degree and conceptually identical or highly similar. There is no aural comparison to be made.

78. Both series of marks show golfing-style umbrellas, depicted at the same angle (albeit in mirror image) and shown in more than one colour (even where the earlier mark is in greyscale, there are differences in shading). Given the high degree of distinctive character of the earlier mark, and imperfect recollection, it is my view that the average consumer would mistake one umbrella for the other. I accept that the

average consumer would be paying a medium to high degree of attention, or a high degree of attention, but I also note that all but one of the contested services are identical to the opponent's services.

79. This finding in itself does not on its own mean that there is a likelihood of confusion: see *Whyte and Mackay*, paragraph 21 (cited above). Although I did not find that "GOT YOU COVERED" was descriptive, I considered it to allude to the purpose of the services. Consequently, the distinctive character of that phrase is fairly low. In my view, the average consumer would see the words as more of a slogan than a signifier of origin. I find there to be a likelihood of indirect confusion between the marks.

80. Before concluding my consideration of this ground, I note that the evidence does not show any examples of confusion. Mr Pritchard accepted that a finding of confusion under section 5(2)(b) does not require this. However, he submitted that it was still a relevant factor, inviting me to infer that the opponent would have searched for instances and, if there had been any, would have adduced them in evidence. He noted that the opponent appeared to have "pored all over the complaints section of the applicant's website"<sup>30</sup> and that this constituted an attempt to find confusion.

81. In *The European Limited v The Economist Newspaper Ltd* [1998] FSR 283 Millett LJ stated that:

"Absence of evidence of actual confusion is rarely significant, especially in a trade mark case where it may be due to differences extraneous to the plaintiff's registered trade mark."

82. I agree with Mr Hollingworth that the lack of evidence of confusion is not significant.  
**The opposition succeeds under section 5(2)(b).**

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<sup>30</sup> Transcript, page 41.

### **Section 5(3)**

83. Mr Hollingworth submitted that section 5(2)(b) represented the opponent's primary and strongest case. Therefore, I shall deal with the remaining grounds only briefly, for the sake of completeness.

84. Section 5(3) of the Act is as follows:

“A trade mark which –

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

[...]

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

85. The conditions of section 5(3) are cumulative. First, the opponent must show that the earlier mark is similar to the application. Secondly, it must satisfy me that the earlier mark has achieved a level of reputation amongst a significant part of the relevant public. Thirdly, it must be established that the level of reputation and the similarities between the marks will cause the public to make a link between them, in the sense of the earlier mark being brought to mind by the application. Fourthly, assuming that the first three conditions have been met, section 5(3) requires that one or more of the three types of damage claimed will occur. It is unnecessary for the purposes of section 5(3) that the services be similar, although the relative distance between them is one of the factors which must be assessed in deciding whether the public will make a link between the marks.



86. I have already found that the marks are similar. The factors I must take into account when considering whether the earlier series of marks has a reputation are the same as those that were relevant to my assessment of distinctive character acquired through use: see *General Motors Corp v Yplon SA*, Case C-375/97, paragraph 27. I am in no doubt that a significant part of the public for *Insurance services* is aware of the earlier mark. As I have found a likelihood of confusion, it follows that a link would arise in the mind of this public. This confusion would be a source of unfair advantage to the applicant. **The opposition also succeeds under section 5(3).**

### **Section 5(4)(a)**

87. Section 5(4)(a) of the Act states that:

“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 or law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, where the condition in subsection 4(A) is met

...”

88. Subsection 4(A) is as follows:

“The condition mentioned in subsection (4)(a) is that the rights to the unregistered trade mark or other sign were acquired prior to the date of application for registration of the trade mark or date of the priority claimed for that application.”

89. Sections 5(2)(b) and 5(4)(a) deal with different areas of law. In the light of the Court of Appeal’s decision in *Comic Enterprises Ltd v Twentieth Century Fox Film Corporation* [2016] EWCA Civ 41, it seems doubtful whether the difference between the legal test for confusion under trade mark law and that for deception under the law of passing off will (all other factors being equal) produce different outcomes. The

opposition succeeded under section 5(2)(b) and would, in my view, also succeed under section 5(4)(a).

## **Outcome**

90. The opposition has been successful and the application is refused.

## **Costs**

91. The opponent has been successful and is entitled to a contribution towards its costs in line with the scale set out in Tribunal Practice Notice (TPN) 2/2016. In the circumstances, I award the opponent the sum of £2800 as a contribution towards the cost of the proceedings. The sum is calculated as follows:

*Preparing a statement and considering the other side's statement: £400*

*Preparing evidence and considering the other side's evidence: £1200*

*Preparing for and attending the hearing: £1000*

*Official fee: £200*

***TOTAL: £2800***

92. I therefore order Got You Covered Limited to pay Legal & General Group plc the sum of £2800, which should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

**Dated this 8th day of December 2021**

**Clare Boucher**

**For the Registrar,**

**Comptroller-General**

## **ANNEX A: SPECIFICATION OF THE CONTESTED SERIES OF MARKS**

### Class 35

*The bringing together, for the benefit of others, of a variety of insurance services, enabling consumers to conveniently compare and purchase those services; Administrative services relating to dental health insurance; Administrative services relating to referrals for insurance agents; Business management of insurance agencies and brokers on an outsourcing basis; Promotion of financial and insurance services, on behalf of third parties; Promotion of insurance services, on behalf of third parties; The bringing together, for the benefit of others, of a variety of insurance services, enabling consumers to conveniently compare and purchase those services.*

### Class 36

*Accident insurance underwriting; Arranging of travel insurance; Automobile accident insurance underwriting; Brokerage of insurance; Brokerage of non-life insurance; Caravan insurance services; Consultancy and brokerage services relating to home insurance; Consulting and information concerning insurance; Credit insurance; Credit risk insurance; Credit risk insurance [factoring]; Credit services for payment of insurance premiums; Credit services for the payment of insurance premiums; Dental health insurance administration; Dental health insurance underwriting and administration; Estimates for insurance purposes; Evaluation (Financial -) [insurance, banking, real estate]; Financial consultancy and insurance consultancy; Financial evaluation for insurance purposes; Financial evaluation for reinsurance purposes; Financial evaluation [insurance, banking, real estate]; Financial evaluation services relating to insurance; Financial services relating to insurance; Financial services relating to the insurance of motor vehicles; Financial services rendered by insurance companies; Financial valuation, adjustment and settlement services relating to insurance claims; Fire insurance; Fire insurance underwriting; Fire insurance valuations; Accident insurance; Accident insurance underwriting services; Administration of insurance business; Arranging of insurance; Automobile accident insurance underwriting; Brokerage (insurance -); Brokerage advisory services relating to insurance; Brokerage of insurance; Consultancy and brokerage services relating to accident insurance; Consultancy and brokerage services relating to travel insurance;*

*Consultancy and brokerage services relating to vehicle insurance; Consultations [insurance]; Consulting and information concerning insurance; Credit insurance; Credit risk insurance; Credit risk insurance [factoring]; Credit services for payment of insurance premiums; Credit services for the payment of insurance premiums; Dental health insurance administration; Dental health insurance underwriting and administration; Endowment insurance services; Estimates for insurance purposes; Evaluation (Financial -) [insurance, banking, real estate]; Evaluation for insurance purposes; Extended guarantee insurance; Extended warranty insurance; Extended warranty insurance services; Financial consultancy and insurance consultancy; Financial evaluation [insurance, banking, real estate]; Financial evaluation for insurance purposes; Financial evaluation services relating to insurance; Financial services relating to insurance; Financial services relating to the insurance of motor vehicles; Financial services rendered by insurance companies; Financial valuation, adjustment and settlement services relating to insurance claims; Fire insurance; Fire insurance underwriting; Fire insurance valuations; Guarantee insurance; Guarantee insurance services; Health insurance; Health insurance underwriting; Health insurance services relating to coach couriers; Health insurances services relating to coach drivers; Home contents insurance; Home insurance services; Household insurance services; Information (Insurance -); Information services relating to insurance; Legal expenses insurance; Provision of insurance premium quotations; Provision of insurance services to insurance companies; Provision of insurance services to reinsurance companies; Provision of mortgage loan insurance; Provision of ten year insurance policies; Real estate insurance services; Research (Insurance -); Savings schemes relating to health insurance; Service insurance contracts; Settlement of insurance claims; Ship insurance agency; Studies (Insurance -); Telephone banking and insurance services; Time and cost completion risk insurance; Time and cost overrun risk insurance; Transit insurance brokerage; Transport insurance brokerage; Travel insurance; Travel insurance services; Underwriting (Insurance -); Underwriting insurance for pre-paid health care; Underwriting insurance for pre-paid legal services; Underwriting of business insurance (Services for the -); Underwriting of company insurance (Services for the -); Underwriting of credit insurance (Services for the -); Underwriting of health insurance (Services for the -); Underwriting of insurance (Services for the -); Underwriting of personal accident insurance (Services for the -); Underwriting of insurance (Services for the -); Underwriting of personal accident*

*insurance (Services for the -); Underwriting relating to marine insurance; Underwriting relating to transport insurance; Valuation of cargo for insurance purposes; Variable insurance investment services; Vehicle insurance services; Warranty insurance services; Insurance; Insurance (Arranging of -); Insurance actuarial services; Insurance administration; Insurance administration of prescription drug benefit plans; Insurance advice; Insurance advisory services; Insurance against loss of credit; Insurance against loss of documents; Insurance agencies; Insurance agency and brokerage; Insurance agency services; Insurance and financial information and consultancy services; Insurance arranging services; Insurance brokerage; Insurance brokerage consultancy and information; Insurance brokerage for property; Insurance brokerage relating to pets; Insurance brokerage services; Insurance brokering; Insurance brokers (Services of -); Insurance broking; Insurance claim assessments; Insurance claim settlements; Insurance claims adjustment; Insurance claims adjustment and settlement services; Insurance claims adjustment services; Insurance claims administration; Insurance claims assessment; Insurance claims processing; Insurance consultancy; Insurance consultancy services relating to explosions; Insurance consultancy services relating to fires; Insurance consultation; Insurance consultation services; Insurance for businesses; Insurance for garages; Insurance for hotels; Insurance for legal expenses; Insurance for offices; Insurance for property owners; Insurance for third party liability; Insurance for vans; Insurance guarantees; Insurance information; Insurance information and consultancy; Insurance investigations; Insurance loss assessment; Insurance management services; Insurance of anti-theft systems; Insurance of buildings; Life insurance brokerage; Loss adjusting services in the field of insurance; Loss adjustment in the field of insurance; Marine accidents insurance underwriting; Marine fire insurance underwriting; Marine insurance; Marine insurance underwriting; Marine transportation insurance underwriting; Medical insurance; Medical insurance brokerage services; Medical insurance services provided to companies; Medical insurance underwriting; Mortgage banking insurance; Mortgage insurance; Motor insurance; Motor insurance brokerage; Motor mechanical breakdown insurance warranty services; Motor vehicle insurance services; Non-life insurance underwriting; Personal insurance relating to liability for repayment of loans; Personal insurance services; Personal insurance services relating to the supply of legal advice; Personal insurance services relating to the supply of legal services; Private health insurance; Processing of insurance claims; Professional*

*indemnity insurance; Property (Real estate -) insurance; Property insurance underwriting; Providing information on insurance matters; Providing information relating to claims adjustment for non-life insurance; Providing information relating to insurance; Providing information relating to insurance premium rate computing; Providing information relating to non-life insurance underwriting; Providing insurance information; Providing insurance premium quotations; Providing online information about insurance from a computer database or the Internet; Providing purchase protection insurance for goods purchased using credit cards; Provision of equipment guarantee insurance; Provision of holiday insurance; Provision of information relating to insurance; Provision of information relating to insurance and financial services; Provision of insurance information; Insurance; Insurance (Arranging of -); Insurance actuarial services; Insurance administration; Insurance administration of prescription drug benefit plans; Insurance advice; Insurance advisory services; Insurance against loss of credit; Insurance against loss of documents; Insurance agencies; Insurance agency and brokerage; Insurance agency services; Insurance and financial information and consultancy services; Insurance arranging services; Insurance brokerage; Insurance brokerage consultancy and information; Insurance brokerage for property; Insurance brokerage relating to pets; Insurance brokerage services; Insurance brokering; Insurance brokers (Services of -); Insurance broking; Insurance claim assessments; Insurance claim settlements; Insurance claims adjustments; Insurance claims adjustment and settlement services; Insurance claims adjustment services; Insurance claims administration; Insurance claims assessment; Insurance claims processing; Insurance consultancy; Insurance consultancy services relating to explosions; Insurance consultancy services relating to fires; Insurance consultation; Insurance consultation services; Insurance for businesses; Insurance for garages; Insurance for hotels; Insurance for legal expenses; Insurance for offices; Insurance for property owners; Insurance for third party liability; Insurance for vans; Insurance guarantees; Insurance information; Insurance information and consultancy; Insurance investigations; Insurance loss assessment; Insurance management services; Insurance of anti-theft systems; Insurance of buildings; Insurance of communications apparatus; Insurance of goods while in transit; Insurance plans (Administration of -); Insurance premium financing services; Insurance premium rate computing; Insurance relating to personal possessions; Insurance relating to property; Insurance research; Insurance risk management; Insurance services; Insurance services for mobile*

*telephones; Insurance services for thatched properties; Insurance services for the construction industry; Insurance services for the protection of drivers; Insurance services for the protection of mortgages; Insurance services for the provision of emergency cash; Insurance services for the repayment of medical expenses; Insurance services relating to aviation; Insurance services relating to boats; Insurance services relating to cancelled bookings for holidays; Insurance services relating to contingency planning; Insurance services relating to credit; Insurance services relating to credit agreements; Insurance services relating to credit cards; Insurance services relating to goods in transit; Insurance services relating to holiday accommodation; Insurance services relating to legal costs; Insurance services relating to life; Insurance services relating to mail order businesses; Insurance services relating to mechanical breakdown; Insurance services relating to motor vehicles; Insurance services relating to services relating to nursing homes; Insurance services relating to pension funds; Insurance services relating to property; Insurance services relating to purchase protection, price protection and extended warranty for goods purchased using credit cards; Insurance services relating to real estate; Insurance services relating to sea cargo; Insurance services relating to sport; Insurance services relating to structured settlements rendered to lawyers; Insurance services relating to structured settlements rendered to property casualty insurers; Insurance services relating to thatched roofs; Insurance services relating to the loss of personal possessions; Insurance services relating to travel; Insurance services relating to vehicles; Insurance subrogation; Insurance underwriting; Insurance underwriting and appraisals and assessment for insurance purposes; Insurance underwriting consultancy; Accident insurance; Accident insurance underwriting; Accident insurance underwriting services; Administration of group insurance; Administration of group insurance plans; Administration of insurance business; Administration of insurance claims; Administration of insurance claims adjustment; Administration of insurance plans; Administration of insurance portfolios; Advice relating to insurance; Advisory services relating to insurance claims; Advisory services relating to insurance contracts; Advisory services relating to life insurance; Agency services for arranging travel insurance; Appraisals for insurance claims of personal property; Appraisals for insurance claims of real estate; Appraisals for insurance purposes; Arranging for financing of insurance premiums; Arranging insurance; Arranging investments, in particular capital investments, financing services and insurance; Arranging of credit*

*insurance; Arranging of insurance; Arranging of insurance claims assessment; Arranging of life insurance; Arranging of travel insurance; Assessing and processing insurance claims; Assessing insurance claims; Automobile accident insurance underwriting; Aviation insurance; Banking insurance; Brokerage (Insurance -); Brokerage advisory services relating to insurance; Brokerage agency relating to ship insurance; Brokerage of casualty insurance; Brokerage of insurance; Brokerage of non-life insurance; Caravan insurance services; Casualty insurance underwriting; Claim adjustment for non-life insurance; Claims assessments (Insurance -); Claims adjustment (Insurance -); Claims adjustment for non-life insurance; Claims adjustment in the field of insurance; Commodities insurance; Computerised information services relating to insurance; Computerised processing of insurance claims; Consultancy and brokerage services relating to accident insurance; Consultancy and brokerage services relating to health insurance; Consultancy and brokerage services relating to home insurance; Consultancy and brokerage services relating to life insurance; Consultancy and brokerage services relating to travel insurance; Consultancy and brokerage services relating to vehicle insurance; Consultancy services relating to insurance; Consultations [insurance]; Consulting and information concerning insurance; Credit insurance; Credit risk insurance; Credit risk insurance [factoring]; Credit services for payment of insurance premiums; Credit services for the payment of insurance premiums; Dental health insurance administration; Dental health insurance underwriting and administration; Endowment insurance services; Estimates for insurance purposes; Evaluation (Financial -) [insurance, banking, real estate]; Evaluation for insurance purposes; Extended guarantee insurance; Extended warranty insurance; Extended warranty insurance services; Financial consultancy and insurance consultancy; Financial evaluation [insurance, banking, insurance services]; Financial consultancy and insurance consultancy; Financial evaluation [insurance, banking, real estate]; Financial evaluation for insurance purposes; Financial evaluation services relating to insurance; Financial services relating to insurance; Financial services relating to the insurance of motor vehicles; Financial services rendered by insurance companies; Financial valuation, adjustment and settlement services relating to insurance claims; Fire insurance; Fire insurance underwriting; Fire insurance valuations; Guarantee insurance; Guarantee insurance services; Health insurance; Health insurance underwriting; Health insurance services relating to coach couriers; Health insurance services relating to coach drivers; Home contents insurance; Home*



*insurance services; Household insurance services; Information (Insurance -); Information services relating to insurance; Legal expenses insurance; Life insurance; Life insurance agencies; Life insurance brokerage; Life insurance underwriting; Loss adjusting services in the field of insurance; Loss adjustment in the field of insurance; Marine accidents insurance underwriting; Marine fire insurance underwriting; Marine insurance; Marine insurance underwriting; Marine transportation insurance underwriting; Medical insurance; Medical insurance brokerage services; Medical insurance services provided to companies; Medical insurance underwriting; Mortgage banking insurance; Mortgage insurance; Motor insurance; Motor insurance brokerage; Motor mechanical breakdown insurance warranty services; Motor vehicle insurance services; Non-life insurance underwriting; Personal insurance relating to liability for repayment of loans; Personal insurance services; Personal insurance services relating to the supply of legal advice; Personal insurance services relating to the supply of legal services; Private health insurance; Processing of insurance claims; Professional indemnity insurance; Property (Real estate -) insurance; Property insurance underwriting; Providing information in insurance matters; Providing information in relating to claims adjustment for non-life insurance; Providing information relating to insurance; Providing information relating to insurance premium rate computing; Providing information relating to life insurance brokerage; Providing information relating to life insurance underwriting; Providing information relating to non-life insurance underwriting; Providing insurance information; Providing insurance premium quotations; Providing online information about insurance from a computer database or the Internet; Providing purchase protection insurance for goods purchased using credit cards; Provision of equipment guarantee insurance; Provision of holiday insurance; Provision of information relating to insurance; Provision of information relating to insurance and financial services; Provision of insurance information; Insurance; Insurance underwriting in the field of professional liability insurance; Insurance underwriting services; Provision of insurance premium quotations; Provision of insurance services to insurance companies; Provision of insurance services to reinsurance companies; Provision of mortgage loan insurance; Provision of ten year insurance policies; Real estate insurance services; Research (Insurance -); Savings schemes relating to health insurance; Service insurance contracts; Settlement of insurance claims; Ship insurance agency; Studies (Insurance -); Telephone banking and insurance services; Time and cost completion risk insurance; Time and cost*

*overrun risk insurance; Transit insurance brokerage; Transit insurance underwriting; Transport insurance brokerage; Travel insurance; Travel insurance services; Underwriting (Insurance -); Underwriting insurance for pre-paid health care; Underwriting insurance for pre-paid legal services; Underwriting of business insurance (Services for the -); Underwriting of company insurance (Services for the -); Underwriting of credit insurance (Services for the -); Underwriting of health insurance (Services for the -); Underwriting of insurance (Services for the -); Underwriting of personal accident insurance (Services for the -); Underwriting relating to marine insurance; Underwriting relating to transport insurance; Valuation of cargo for insurance purposes; Variable insurance investment services; Vehicle insurance services; Warranty insurance services.*

**Class 41**

*Courses (Training -) relating to insurance; Educational courses relating to insurance; Courses (Training -) relating to insurance; Educational courses relating to insurance.*

**Class 45**

*Fraud detection services in the field of health care insurance; Investigation services related to insurance claims; Legal services relating to social insurance claims.*

## **ANNEX B: SPECIFICATION OF THE EARLIER SERIES OF MARKS**

### Class 9

*Mobile apps; mobile apps for the provision of medical and healthcare advice; downloadable mobile applications; downloadable mobile applications for the provision of medical and healthcare advice; applications for mobile devices; applications for mobile devices for the provision of medical and healthcare advice; mobile application software; parts and fittings for all the aforesaid goods.*

### Class 16

*Paper, cardboard and goods made from these materials, not included in other classes; printed matter; stationery; instructional and teaching material (except apparatus); books, manuals, brochures, forms; advertising material, computer software in written form; publications; periodicals; magazines, journals, newspapers; photographs; maps; parts and fittings for all the aforesaid goods.*

### Class 19

*Buildings; non-metallic buildings and parts therefor; building materials; parts and fittings for all the aforesaid goods.*

### Class 35

*Advertising; business management; business administration; office functions; services of a franchisor; relocation advice and management; advertising services; advertising of property; advertising services provided via the Internet; accountancy; provision of business information; business services; business services, including those of or rendered by a franchisor, namely, assistance in the running and/or management of industrial or commercial enterprises; including, but not limited to, all the aforesaid provided by electronic means including the Internet; consultancy, advisory and information services in relation to any or all of the aforesaid services in this Class, including such services provided via the Internet.*

### Class 36

*Insurance; financial affairs; monetary affairs; real estate affairs; financial services rendered by a franchisor; provision of financial products; provision of financial advice*

*and information; provision of investment products; provision of investment advice and information; provision of savings products; provision of savings advice and information; provision of insurance products; provision of insurance advice and information; insurance services, including general insurance, life insurance, health care and medical insurance, home insurance, motor insurance, building insurance, contents insurance, mortgage payment insurance, critical illness insurance; insurance underwriting services; insurance claims services; insurance claims administration; medical insurance services; financial services; financial services relating to pensions and pension funds; investment services; investment management services; financial investment management services; fund investment management; investment management; investment management of funds; mortgage investment management; pension and pension fund investment management; portfolio investment management; real estate investment management; stock brokerage; stock investment management; savings services; offshore bond services; investment and savings advice and consultancy services; financial services provided via the Internet; provision of financial information; financial services relating to pensions and pension funds; financial services relating to investments, savings and bonds; banking services; savings and investment services; mortgage services; financial loan services; provision of financial information; loan financing; loan advice and loan procurement services; financing of loans; arrangement of loans; financial lending; money lending services; lending services; loan services; pension services; financial advice and consultancy services; private equity services; private equity fund investment services; property management services; estate management services relating to transactions in real property; property buying and selling services; financial services relating to the buying and selling of properties; real estate and property management services; real property management; stockbroking services; share advice services; share advice services, namely, investment advice services; real estate services; real estate brokerage; real estate agency services; estate agency services; fund investment services; capital investment fund management services; annuity services; fund management services; capital investment services; lending services; commercial lending services; savings bank services; leasing, letting and rental of property services; real estate management and valuation services; property and land management and valuation services; arranging of insurance; housing management; provision of housing accommodation; provision of permanent housing accommodation; real estate management services*

*relating to housing estates; real estate management services relating to residential buildings; management of property; valuation of property; financial services relating to property; financial services relating to real estate property and buildings; financing of property development; residential investment advice; residential real estate agency services; providing homes for rental; including, but not limited to, all the aforesaid provided by electronic means including the Internet; consultancy, advisory and information services in relation to any or all of the aforesaid services in this Class, including such services provide via the Internet.*

### Class 37

*Property development services [construction]; real estate development services; land development services for housing; construction of residential properties; construction, maintenance, restoration and/or repair of buildings, and of parts and fittings for buildings; installation of building fixtures and fittings; interior decorating and painting; plumbing, joinery, masonry and plastering services; construction, maintenance and repair of civil engineering structures; building homes; residential development services; including, but not limited to, all the aforesaid provided by electronic means including the Internet; consultancy, advisory and information services for or in relation to any or all of the aforementioned services in this Class, including such services provided via the Internet.*

### Class 41

*Education; providing of training; education and training services relating to insurance, financial affairs, monetary affairs, real estate affairs, insurance services (including general insurance, life insurance, health care and medical insurance, home insurance, motor insurance, building insurance, contents insurance, mortgage payment insurance, critical illness insurance), medical insurance services, financial services, financial services provided via the Internet, provision of financial information, financial services relating to pensions and pension funds, banking services, savings and investment services, mortgage services, loan services, pension services, financial advice and consultancy services, stockbroking services, share advice services, real estate services, estate agency services, fund investment services, fund management services, capital investment services, lending services, savings bank services, leasing, letting and rental of property services, property and land management and valuation*

*services, arranging of insurance; including, but not limited to, all the aforesaid provided by electronic means including the Internet; arranging, conducting, organising and planning conferences, courses, lectures and seminars for education and training purposes; arranging, conducting, organising and planning conferences, courses, lectures and seminars for education and training purposes relating to insurance, financial affairs, monetary affairs, real estate affairs, insurance services, (including general insurance, life insurance, health care and medical insurance, home insurance, motor insurance, building insurance, contents insurance, mortgage payment insurance, critical illness insurance), medical insurance services, financial services, financial services provided via the Internet, provision of financial information, financial services relating to pensions and pension funds, banking services, savings and investment services, mortgage services, loan services, pension services, financial advice and consultancy services, stockbroking services, share advice services, real estate advice and consultancy services, stockbroking services, share advice services, real estate services, estate agency services, fund investment services, fund management services, capital investment services, lending services, savings bank services, leasing, letting and rental of property services, property and land management and valuation services, arranging of insurance; including, but not limited to, all the aforesaid provided by electronic means including the Internet; publication of education and training material; publication of education and training material relating to insurance, financial affairs, monetary affairs; real estate affairs, insurance services (including general insurance, life insurance, health care and medical insurance, home insurance, motor insurance, building insurance, contents insurance, mortgage payment insurance, critical illness insurance), medical insurance services, financial services, financial services provided via the Internet, provision of financial information, financial services relating to pensions and pension funds, banking services, savings and investment services, mortgage services, loan services, pension services, financial advice and consultancy services, stockbroking services, share advice services, real estate services, estate agency services, fund investment services, fund management services, capital investment services, lending services, savings bank services, leasing, letting and rental of property services, property and land management and valuation services, arranging of insurance including but not limited to, all the aforesaid provided by electronic means including the Internet; consultancy, advisory and information in*

*relation to any or all of the aforesaid services in this Class, including such services provided via the Internet.*

#### *Class 42*

*Planning and design of residential communities; architectural design services and consultancy; design of buildings and of components used in building and construction; design and consultancy services for the interiors of buildings; surveying; surveying of real estate; home inspection services; surveying of land; including, but not limited to, all of the aforesaid services provided by electronic means including the Internet; consultancy, advisory and information services for or in relation to any or all of the aforementioned services in this Class, including such services provided via the Internet.*

#### *Class 44*

*Medical services; healthcare services; medical and healthcare services provided via mobile phone applications; medical consultations; healthcare consultations; medical and healthcare consultations via mobile phone applications; providing medical information; providing healthcare information; providing medical and healthcare information via mobile phone applications; medical information services; healthcare information services; medical and healthcare information services via mobile phone applications; medical evaluation services; healthcare evaluation services; medical and healthcare evaluation services via mobile phone applications; medical diagnostic services; healthcare diagnostic services; medical and healthcare diagnostic services via mobile phone applications; including, but not limited to, all the aforesaid services provided by electronic means including the Internet; consultancy, advisory and information services for or in relation to any or all of the aforementioned services in this Class, including such services provided via the Internet.*

#### *Class 45*

*Legal services; legal services relating to insurance, financial affairs, monetary affairs, real estate affairs, insurance services (including general insurance, life insurance, health care and medical insurance, home insurance, motor insurance, building insurance, contents insurance, mortgage payment insurance, critical illness*

*insurance), medical insurance services, financial services, financial services provided via the Internet, provision of financial information, financial services relating to pensions and pension funds, banking services, savings and investment services, mortgage services, loan services, pension services, financial advice and consultancy services, stockbroking services, share advice services, real estate services, estate agency services, fund investment services, fund management services, capital investment services, lending services, savings bank services, leasing, letting and rental of property services, property and land management and valuation services, arranging of insurance; including, but not limited to, all the aforesaid provided by electronic means including the Internet; consultancy, advisory and information in relation to the aforesaid services in this Class, including such services provided via the Internet.*