

BL O/0502/23

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00003692947

BY STIK DEVELOPMENTS LIMITED

TO REGISTER THE TRADE MARK:

STIK DEVELOPMENTS

IN CLASSES 36 AND 37

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NO. 430782

BY JOHN WATERHOUSE

BACKGROUND AND PLEADINGS

1. On 10 September 2021, Stik Developments Limited (“the applicant”) applied to register the trade mark shown on the cover page of this decision in the UK. The application was published for opposition purposes on 3 December 2021. The applicant seeks registration for the following services:

Class 36 Financing of property development; real estate services; real estate management, financing, investment, leaseings, valuations and marketing.

Class 37 Property development services [construction].

2. The application was partially opposed by John Waterhouse (“the opponent”) on 3 February 2022. The opposition is based upon section 5(2)(b) of the Trade Marks Act 1994 (“the Act”) and is directed against the applicant’s class 37 property development services. Under section 5(2)(b), the opponent relies upon the following trade marks:

STIK

Comparable UK trade mark (EU) registration no. UK00915430416

Filing date 11 May 2016; Registration date 10 March 2017.

(“The First Earlier Mark”)

STIK

UK registration no. UK00003173417

Filing date 7 July 2016; Registration date 2 December 2016.

Priority date 11 May 2016.¹

(“The Second Earlier Mark”)

¹ There are 2 priority dates deriving from 2 earlier EU marks, however, as the opponent is only relying upon its class 19 goods, priority can only be claimed from the 015430416 mark with a priority of 11 May 2016.

3. The opponent relies upon some of its goods for which its earlier marks are registered, as underlined in the Annex to this decision.

4. As shown above, the opposition is based upon the opponent's first earlier comparable UK trade mark (EU),² and its second earlier mark, claiming that there is a likelihood of confusion because the marks are highly similar and the goods and services are similar.

5. The applicant filed a counterstatement denying the claims made.

6. The opponent is represented by Kilburn & Strode LLP, and the applicant is represented by Agile IP LLP. A hearing was neither requested nor considered necessary, however, both parties filed written submissions during the evidence rounds, and the opponent filed submissions in lieu of a hearing. I make this decision having taken full account of all the papers, referring to them as necessary.

RELEVANCE OF EU LAW

7. 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 accordance with EU law as it stood at the end of the transition period. The provisions of the 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.

DECISION

8. Section 5(2) reads as follows:

“5(2) A trade mark shall not be registered if because –

² Following the end of the transition period of the UK's withdrawal from the EU, all EU trade marks (“EUTM”) registered before 1 January 2021 were recorded as comparable trade marks in the UK trade mark register (and as a consequence, have the same legal status as if they had been applied for and registered under UK law). A ‘comparable trade mark (EU)’ retains the same filing date, priority date (if applicable) and registration date of the EUTM from which it derives.

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

(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.”

9. The earlier marks had not completed their registration process more than five years before the relevant date (the filing date of the mark in issue). Accordingly, the use provisions at s.6A of the Act do not apply. The opponent may rely on all of the goods it has identified without demonstrating that it has used the marks.

Section 5(2)(b) case law

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

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

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely

upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

- (c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;
- (d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;
- (e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;
- (f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;
- (g) a lesser degree of similarity between the goods or services may be offset by a great degree of similarity between the marks, and vice versa;
- (h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has been made of it;
- (i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;
- (j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense;

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

Comparison of goods and services

11. I note that the opponent's First and Second Earlier Marks' class 19 specifications, which are being relied upon in these proceedings, are the same and therefore I will deal with them collectively.

12. The competing goods and services are as follows:

Opponent's goods	Applicant's goods
<u>Class 19</u> Arches of non-metallic materials; architraves of non-metallic materials; bamboo flooring; bannisters; bathroom tiles; beams; wooden floorboards; bricks; brickwork supports; building beams; building blocks incorporating insulating materials; wood flooring; laminate flooring; tile flooring; cork flooring; building elements made of concrete; building glass; building panels not of metal; building stone; building timber; cement; ceiling boards of wood; ceiling panels not of metal; ceiling tiles; ceramic floor tiles; ceramic floor coverings; ceramic paving and surfacing; ceramic roofing tiles; ceramic tiles for floors; ceramic tiles for internal walls; chimneys, not of metal; chipboard; chipboard panels; cladding board (non-metallic);	<u>Class 37</u> Property development services [construction].

<p>cornices, not of metal; dado rails; decking (non-metallic); decorative glass (for building); fireplace surrounds; flagstones; non-metallic flooring; floorboards; grout; grouting preparations; handrails not of metal; mouldings, not of metal, for cornices; pipes and tubes, and fittings therefor, including valves, non-metallic; paving blocks; plaster; plasterboard; plastic tiles; plywood; prefabricated elements (non-metallic) for building; roofing materials; shuttering (non-metallic); skirting board (non-metallic); coving (non-metallic); works of stonemasonry; tiles; trellis (not of metal); veneer wood; wood for building; non-metallic cladding for windows; door frames, not of metal; door cases, not of metal; door panels, not of metal; doors, non-metallic; glass doors; glass for building; glass for use in buildings; glass for windows; plastic window frames; window frames, not of metal; wooden window frames; wooden door frames; wooden doors; wooden shutters.</p>	
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13. When making the comparison, all relevant factors relating to the goods and services in the specifications should be taken into account. In the judgment of the Court of Justice of the European Union (“CJEU”) in Canon, Case C-39/97, the court stated at paragraph 23 that:

“In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, all

the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, inter alia, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary.”

14. Guidance on this issue has come from Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, where he identified the factors for assessing similarity as:

- (a) The respective uses of the respective goods or services;
- (b) The respective users of the respective goods or services;
- (c) The physical nature of the goods or acts of service;
- (d) The respective trade channels through which the goods or services reach the market;
- (e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be found in supermarkets and, in particular, whether they are or are likely to be found on the same or different shelves;
- (f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance, whether market research companies, who of course act for industry, put the goods or services in the same or different sectors

15. In *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T- 133/05, the General Court (“GC”) stated that:

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

where the goods designated by the trade mark application are included in a more general category designated by the earlier mark.”

16. In *YouView TV Ltd v Total Ltd*, [2012] EWHC 3158 (Ch), Floyd J. (as he then was) stated that:

“... Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise: see the observations of the CJEU in Case C-307/10 *The Chartered Institute of Patent Attorneys (Trademarks) (IP TRANSLATOR)* [2012] ETMR 42 at [47]-[49]. Nevertheless the principle should not be taken too far. Treat was decided the way it was because the ordinary and natural, or core, meaning of ‘dessert sauce’ did not include jam, or because the ordinary and natural description of jam was not ‘a dessert sauce’. Each involved a straining of the relevant language, which is incorrect. Where words or phrases in their ordinary and natural meaning are apt to cover the category of goods in question, there is equally no justification for straining the language unnaturally so as to produce a narrow meaning which does not cover the goods in question.”

17. In *Beautimatic International Ltd v Mitchell International Pharmaceuticals Ltd and Another*, [2000] F.S.R. 267 (HC), Neuberger J. (as he then was) stated that:

“I should add that I see no reason to give the word “cosmetics” and “toilet preparations”... anything other than their natural meaning, subject, of course, to the normal and necessary principle that the words must be construed by reference to their context.”

18. In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods. In *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06, the GC stated that “complementary” means:

“... 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 the responsibility for those goods lies with the same undertaking.”

19. In *Sanco SA v OHIM*, Case T-249/11, the GC indicated that goods and services may be regarded as ‘complementary’ and therefore similar to a degree in circumstances where the nature and purpose of the respective goods and services are very different, i.e. chicken against transport services for chickens. The purpose of examining whether there is a complementary relationship between goods/services is to assess whether the relevant public are liable to believe that responsibility for the goods/services lies with the same undertaking or with economically connected undertakings. As Mr Daniel Alexander Q.C. (as he then was) noted, as the Appointed Person, in *Sandra Amalia Mary Elliot v LRC Holdings Limited*, BL-0-255-13:

“It may well be the case that wine glasses are almost always used with wine – and are, on any normal view, complementary in that sense – but it does not follow that wine and glassware are similar goods for trade mark purposes.”
Whilst on the other hand: “... it is neither necessary nor sufficient for a finding of similarity that the goods in question must be used together or that they are sold together.”

Whilst on the other hand:

“... it is neither necessary nor sufficient for a finding of similarity that the goods in question must be used together or that they are sold together.”

20. In its Notice of Opposition (Form TM7), the opponent states that its class 19 construction goods are similar, and also complementary, to the applicant’s development and construction class 37 services, “because consumers would expect the services to emanate from the same source as STIK branded construction goods”. In the opponent’s submissions, it states that the applicant’s services entail use of construction goods, and therefore the services could not be carried out without them.

21. Furthermore, the opponent states that it is “not uncommon for the Registrar to consider” these goods and services as similar, and proceeds to list 2 Board of Appeal cases where they “rejected the argument that it is not common for undertakings to provide construction goods and construction services”.

22. Firstly, I note that the Board of Appeal is responsible for dealing with appeals against first instance decisions taken by the EUIPO concerning European Union trade marks. However, this Tribunal is not bound by the decisions of the EUIPO, and therefore, in turn, is not bound by the decisions of the Board of Appeal.

23. Secondly, I note that as highlighted by the case law above, complementarity is a two part test. First, are the goods and services important or indispensable to one another? I note that the applicant’s “property development services (construction)” is a self-explanatory term. It is a type of construction service provided to build and develop properties. I therefore consider that these services will be facilitated by using the opponent’s class 19 construction goods. Therefore, the first part of the test is satisfied. The second part of the test looks at whether the average consumer would believe that the goods and services originate from the same undertaking. I do not consider that this part of the test would be satisfied. The consumer would not believe that the construction goods were also produced by the same undertaking which provides property development services (construction). The applicant’s services would be provided by builders and construction companies. The construction goods would be sold in DIY retail outlets, which can be brought and directly assessed by the general public. Consequently, the user would know that these goods are provided by different trade channels.

24. I also note that the rest of the *Treat* factors are not satisfied. The goods and services clearly do not overlap in nature and method of use. There may be very minimal overlap in purpose to the extent that they are all used for construction, however, the opponent’s goods all have specific purposes (such as to provide insulation, to build walls, to provide surface areas such as floors and ceilings etc.). Furthermore, it is unlikely that the manufacturers of these building materials would offer installation services for these goods. I therefore consider that, taking all of the above into account, the goods and services are dissimilar.

25. In *eSure Insurance v Direct Line Insurance*, [2008] ETMR 77 CA, Lady Justice Arden stated that (my emphasis):

“49..... I do not find any threshold condition in the jurisprudence of the Court of Justice cited to us. Moreover I consider that no useful purpose is served by holding that there is some minimum threshold level of similarity that has to be shown. **If there is no similarity at all, there is no likelihood of confusion to be considered.** If there is some similarity, then the likelihood of confusion has to be considered but it is unnecessary to interpose a need to find a minimum level of similarity.”

26. As established in the case law above, under section 5(2)(b), for there to be a likelihood of confusion between the marks, there has to be a finding of similarity between the goods and services. Since I have determined that they are not similar, the opposition fails here.

CONCLUSION

27. The opposition is unsuccessful, and the application may proceed to registration.

COSTS

28. The applicant has been successful and is entitled to a contribution towards its costs, based upon the scale published in Tribunal Practice Notice 2/2016. In the circumstances, I award the applicant the sum of **£550** as a contribution towards the costs of the proceedings. The sum is calculated as follows:

Considering the Notice of opposition and preparing a Counterstatement	£200
Preparing and filling submissions	£350
Total	£550

29. I therefore order John Waterhouse to pay Stik Developments Limited the sum of £500. This sum is to be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings.

Dated this 31st day of May 2023

L FAYTER

For the Registrar

ANNEX

The First Earlier Mark

Class 19

Arches of non-metallic materials; architraves of non-metallic materials; bamboo flooring; bannisters; bathroom tiles; beams; wooden floorboards; bricks; brickwork supports; building beams; building blocks incorporating insulating materials; wood flooring; laminate flooring; tile flooring; cork flooring; building elements made of concrete; building glass; building panels not of metal; building stone; building timber; cement; ceiling boards of wood; ceiling panels not of metal; ceiling tiles; ceramic floor tiles; ceramic floor coverings; ceramic paving and surfacing; ceramic roofing tiles; ceramic tiles for floors; ceramic tiles for internal walls; chimneys, not of metal; chipboard; chipboard panels; cladding board (non-metallic); cornices, not of metal; dado rails; decking (non-metallic); decorative glass (for building); fireplace surrounds; flagstones; non-metallic flooring; floorboards; grout; grouting preparations; handrails not of metal; mouldings, not of metal, for cornices; pipes and tubes, and fittings therefor, including valves, non-metallic; paving blocks; plaster; plasterboard; plastic tiles; plywood; prefabricated elements (non-metallic) for building; roofing materials; shuttering (non-metallic); skirting board (non-metallic); coving (non-metallic); works of stonemasonry; tiles; trellis (not of metal); veneer wood; wood for building; non-metallic cladding for windows; door frames, not of metal; door cases, not of metal; door panels, not of metal; doors, non-metallic; glass doors; glass for building; glass for use in buildings; glass for windows; plastic window frames; window frames, not of metal; wooden window frames; wooden door frames; wooden doors; wooden shutters.

Class 27

Carpets, rugs and mats; linoleum, non-textile wall hangings; wallpaper; floor coverings; ceiling paper.

Class 28

Toys, games and playthings; plush toys; playing cards; gymnastic and sporting articles; decorations for Christmas trees; children's toy bicycles; games consoles; hand held video games; parts and fittings therefor.

Class 35

Retail of art, retail services in connection with the sale of goods of common metal, badges of common metal, adhesive wall decorations of common metal, clothes hooks of metal; retail services in connection with the sale of action figures of common metal, artistic objects of common metal, figures of common metal, commemorative plaques of metal, sculptures of metal, works of art of common metal, bottle caps of metal, tin cans; retail services in connection with the sale of printed matter, stationery, photographs, posters, books, stencils, artists' materials, paint brushes, paper, apparatus for displaying pictures, pictures, prints of pictures, framed pictures, mounts for pictures, address books, appointment books, art pictures, art prints, bank checks, blank journals, books in the field of art, calendars, check books; retail services in connection with the sale of Christmas cards, collages, custom paintings, diaries, drawings, envelopes, event albums, framed art prints, framed paintings, gift boxes, illustrations, lithographic prints, lithographic works of art, memory books, note cards, occasion cards; retail services in connection with the sale of paintings, paintings and calligraphic works, paintings and their reproductions, personal organizers, photo albums, postcards, postcards and greeting cards, postcards and picture postcards, printed art reproductions; retail services in connection with the sale of leather and imitations of leather, animal skins, hides, trunks and travelling bags, handbags, rucksacks, briefcases, bags, trunks, change purses, coin purses, credit card cases, knapsacks, luggage, overnight bags, suitcases, valises, pocketbooks (handbags), purses, travel cases, wallets, tote bags, umbrellas, parasols and walking sticks, parts and fittings for all the aforesaid goods; retail services in connection with the sale of arches of non-metallic materials, architraves of non-metallic materials, bamboo flooring, bannisters, bathroom tiles, beams, wooden floorboards, bricks, brickwork supports, building beams, building blocks incorporating insulating materials, wood flooring, laminate flooring, tile flooring, cork flooring; retail services in connection with the sale of building elements made of concrete, building glass, building panels not of metal, building stone, building timber, cement, ceiling boards of wood, ceiling panels not of metal, ceiling tiles, ceramic floor tiles, ceramic floor coverings, ceramic paving and surfacing, ceramic roofing tiles, ceramic tiles for floors, ceramic tiles for internal walls; retail services in connection with the sale of chimneys, not of metal, chipboard, chipboard panels, cladding board (non-metallic), cornices, not of metal, dado rails, decking (non-metallic), decorative glass (for building), fireplace surrounds, flagstones, non-metallic flooring, floorboards, grout, grouting preparations, handrails not of metal,

mouldings, not of metal, for cornices, pipes and tubes, and fittings therefor, including valves, (non-metallic); retail services in connection with the sale of paving blocks, plaster, plasterboard, plastic tiles, plywood, prefabricated elements (non-metallic) for building, roofing materials, shuttering (non-metallic), skirting board (non-metallic), coving (non-metallic); retail services in connection with the sale of works of stonemasonry, tiles, trellis (not of metal), veneer wood, wood for building, non-metallic cladding for windows, door frames, not of metal, door cases, not of metal, door panels, not of metal, doors (non-metallic), glass doors, glass for building, glass for use in buildings, glass for windows, plastic window frames, window frames, not of metal, wooden window frames, wooden door frames, wooden doors, wooden shutters; retail services in connection with the sale of statues of porcelain, ceramic, or glass, figurines of porcelain, ceramic, or glass, works of art, of porcelain, ceramic, or glass tableware, coasters, cookware, crockery, bowls, bread bins, carving boards, cups and mugs, dustbins, flower vases, glasses, coasters, cookware, crockery, bakeware, carving boards; retail services in connection with the sale of ceramic tableware, porcelain tableware, tableware, other than knives, forks and spoons, table protectors made of porcelain or ceramic, ceramic tableware collections, paper tableware collections, fittings and sets comprising of the aforesaid goods; retail services in connection with the sale of cushion covers, bed clothes and linens, blankets, furniture coverings, curtains, wall hangings, textiles, table mats (not of paper), canvas, curtain fabric, fabrics for interior decorating, fabric for the manufacture of furnishings, interior decoration fabrics; retail services in connection with the sale of coverings for furniture, drapes, table covers, fabric table toppers, textile smallwares, namely tapes, banners, badges, bunting, labels, handkerchiefs, napkins, covering for furniture, dishcloths, fabric cascades, fabric flags, friezes, and washcloths; retail services in connection with the sale of textile napkins, kitchen and table linens, drink mats of table linen, table cloths not of paper, table place setting mats made of textile, table covers, coasters made of textiles, table protectors made of textiles, textile tableware collections, fittings and sets comprising of the aforesaid goods; retail services in connection with the sale of clothing, footwear and headgear; retail services in connection with the sale of carpets, rugs and mats, linoleum, non-textile wall hangings, wallpaper, floor coverings, ceiling paper; retail services in connection with the sale of toys, games and playthings, plush toys, playing cards, gymnastic and sporting articles, decorations for Christmas

trees, children's toy bicycles, games consoles, hand held video games, parts and fittings therefor.

The Second Earlier Mark

Class 16

Printed matter; stationery; photographs; posters; books; stencils; artists' materials; paint brushes; paper; apparatus for displaying pictures; pictures, prints of pictures, framed pictures; mounts for pictures; address books; appointment books; art pictures; art prints; bank checks; blank journals; books in the field of art; calendars; check books; Christmas cards; collages; custom paintings; diaries; drawings; envelopes; event albums; framed art prints; framed paintings; gift boxes; illustrations; lithographic prints; lithographic works of art; memory books; note cards; occasion cards; paintings; paintings and calligraphic works; paintings and their reproductions; personal organizers; photo albums; postcards; postcards and greeting cards; postcards and picture postcards; printed art reproductions.

Class 19

Arches of non-metallic materials; architraves of non-metallic materials; bamboo flooring; bannisters; bathroom tiles; beams; wooden floorboards; bricks; brickwork supports; building beams; building blocks incorporating insulating materials; wood flooring; laminate flooring; tile flooring; cork flooring; building elements made of concrete; building glass; building panels not of metal; building stone; building timber; cement; ceiling boards of wood; ceiling panels not of metal; ceiling tiles; ceramic floor tiles; ceramic floor coverings; ceramic paving and surfacing; ceramic roofing tiles; ceramic tiles for floors; ceramic tiles for internal walls; chimneys, not of metal; chipboard; chipboard panels; cladding board (non-metallic); cornices, not of metal; dado rails; decking (non-metallic); decorative glass (for building); fireplace surrounds; flagstones; non-metallic flooring; floorboards; grout; grouting preparations; handrails not of metal; mouldings, not of metal, for cornices; pipes and tubes, and fittings therefor, including valves, non-metallic; paving blocks; plaster; plasterboard; plastic tiles; plywood; prefabricated elements (non-metallic) for building; roofing materials; shuttering (non-metallic); skirting board (non-metallic); coving (non-metallic); works of stonemasonry; tiles; trellis (not of metal); veneer wood; wood for building; non-metallic cladding for windows; door frames, not of metal; door cases, not of metal; door panels,

not of metal; doors, non-metallic; glass doors; glass for building; glass for use in buildings; glass for windows; plastic window frames; window frames, not of metal; wooden window frames; wooden door frames; wooden doors; wooden shutters.

Class 25

Clothing, footwear and headgear.

Class 27

Carpets, rugs and mats; linoleum, non-textile wall hangings; wallpaper; floor coverings; ceiling paper.

Class 28

Toys, games and playthings; plush toys; playing cards; gymnastic and sporting articles; decorations for Christmas trees; children's toy bicycles; games consoles; hand held video games; parts and fittings therefor.

Class 35

Retail services connected with the sale of art namely, paintings, prints, statues, carvings, artistic prints, posters, works of art and figurines of paper and cardboard, and architects models, graphic art prints, statues, figurines, works of art and ornaments and decorations made from materials such as wood, wax, plaster or plastic, works of art made of glass, works of art made of crystal, works of art made of earthenware, works of art made of porcelain; retail services in connection with the sale of goods of common metal namely badges of common metal, adhesive ore, decorations of common metal, clothes hooks of metal; retail services in connection with the sale of action figures of common metal, artistic objects of common metal, figures of common metal, commemorative plaques of metal, sculptures of metal, works of art of common metal, bottle caps of metal, tin cans; retail services in connection with the sale of printed matter, stationery, photographs, posters, books, stencils, artists' materials, paint brushes, paper, apparatus for displaying pictures, pictures, prints of pictures, framed pictures, mounts for pictures, address books, appointment books, art pictures, art prints, bank checks, blank journals, books in the field of art, calendars, check books; retail services in connection with the sale of Christmas cards, collages, custom paintings, diaries, drawings, envelopes, event albums, framed art prints, framed

paintings, gift boxes, illustrations, lithographic prints, lithographic works of art, memory books, note cards, occasion cards; retail services in connection with the sale of paintings, paintings and calligraphic works, paintings and their reproductions, personal organizers, photo albums, postcards, postcards and greeting cards, postcards and picture postcards, printed art reproductions; retail services in connection with the sale of leather and imitations of leather, animal skins, hides, trunks and travelling bags, handbags, rucksacks, briefcases, bags, trunks, change purses, coin purses, credit card cases, knapsacks, luggage, overnight bags, suitcases, valises, pocketbooks (handbags), purses, travel cases, wallets, tote bags, umbrellas, parasols and walking sticks, parts and fittings for all the aforesaid goods; retail services in connection with the sale of arches of non-metallic materials, architraves of non-metallic materials, bamboo flooring, bannisters, bathroom tiles, beams, wooden floorboards, bricks, brickwork supports, building beams, building blocks incorporating insulating materials, wood flooring, laminate flooring, tile flooring, cork flooring; retail services in connection with the sale of building elements made of concrete, building glass, building panels not of metal, building stone, building timber, cement, ceiling boards of wood, ceiling panels not of metal, ceiling tiles, ceramic floor tiles, ceramic floor coverings, ceramic paving and surfacing, ceramic roofing tiles, ceramic tiles for floors, ceramic tiles for internal walls; retail services in connection with the sale of chimneys, not of metal, chipboard, chipboard panels, cladding board (non-metallic), cornices, not of metal, dado rails, decking (non-metallic), decorative glass (for building), fireplace surrounds, flagstones, non-metallic flooring, floorboards, grout, grouting preparations, handrails not of metal, mouldings, not of metal, for cornices, pipes and tubes, and fittings therefor, including valves, (non-metallic); retail services in connection with the sale of paving blocks, plaster, plasterboard, plastic tiles, plywood, prefabricated elements (non-metallic) for building, roofing materials, shuttering (non-metallic), skirting board (non-metallic), coving (non-metallic); retail services in connection with the sale of works of stonemasonry, tiles, trellis (not of metal), veneer wood, wood for building, non-metallic cladding for windows, door frames, not of metal, door cases, not of metal, door panels, not of metal, doors (non-metallic), glass doors, glass for building, glass for use in buildings, glass for windows, plastic window frames, window frames, not of metal, wooden window frames, wooden door frames, wooden doors, wooden shutters; retail services in connection with the sale of statues of porcelain, ceramic, or glass, figurines of porcelain, ceramic, or glass, works of art, of porcelain, ceramic, or glass

tableware, coasters, cookware, crockery, bowls, bread bins, carving boards, cups and mugs, dustbins, flower vases, glasses, coasters, cookware, crockery, bakeware, carving boards; retail services in connection with the sale of ceramic tableware, porcelain tableware, tableware, other than knives, forks and spoons, table protectors made of porcelain or ceramic, ceramic tableware collections, paper tableware collections, fittings and sets comprising of the aforesaid goods; retail services in connection with the sale of cushion covers, bed clothes and linens, blankets, furniture coverings, curtains, wall hangings, textiles, table mats (not of paper), canvas, curtain fabric, fabrics for interior decorating, fabric for the manufacture of furnishings, interior decoration fabrics; retail services in connection with the sale of coverings for furniture, drapes, table covers, fabric table toppers, textile smallwares, namely tapes, banners, badges, bunting, labels, handkerchiefs, napkins, covering for furniture, dishcloths, fabric cascades, fabric flags, friezes, and washcloths; retail services in connection with the sale of textile napkins, kitchen and table linens, drink mats of table linen, table cloths not of paper, table place setting mats made of textile, table covers, coasters made of textiles, table protectors made of textiles, textile tableware collections, fittings and sets comprising of the aforesaid goods; retail services in connection with the sale of clothing, footwear and headgear; retail services in connection with the sale of carpets, rugs and mats, linoleum, non-textile wall hangings, wallpaper, floor coverings, ceiling paper; retail services in connection with the sale of toys, games and playthings, plush toys, playing cards, gymnastic and sporting articles, decorations for Christmas trees, children's toy bicycles, games consoles, hand held video games, parts and fittings therefor.

Class 41

Education and training services; entertainment; cultural activities, art exhibitions; art gallery services; on-line art galleries; competition services; arranging of art shows; providing on-line electronic publications (not downloadable); publication of electronic artistic works, books and journals on art on-line.

Class 42

Art work design; graphic art services; commissioned graphic arts design; creating and maintaining websites for others; hosting websites.

Class 45

Protection of copyright relating to artistic works; copyright management.