



LE REGISTRAIRE DES MARQUES DE COMMERCE
THE REGISTRAR OF TRADE-MARKS

Citation: 2012 TMOB 46
Date of Decision: 2012-02-29

**IN THE MATTER OF OPPOSITIONS
by Volvo Trade-mark Holding AB to
application No. 1,298,451 for the trade-
mark LOVOL and application No.
1,298,532 for the trade-mark LOVOL &
Design, in the name of Hebei Aulion
Heavy Industries Co., Ltd.**

[1] On April 20, 2006, Hebei Aulion Heavy Industries Co., Ltd. (the Applicant) filed applications to register the trade-mark LOVOL and the trade-mark LOVOL & Design (shown below), under application Nos. 1,298,451 and 1,298,532 respectively (the Marks).



The applications are based upon proposed use in association with the following wares:

Harvesters; agricultural equipment, namely, cultivating equipment, irrigation equipment, land fertilizing equipment, and livestock feeding equipment, road rollers; excavators; earth moving machines, namely, loaders; bulldozers; concrete mixers; cranes; grain threshing machines; rice transplanters; automobiles; vehicles for transport for agricultural use, namely, all terrain vehicles; motorcycles; derrick cars; cycle cars; bicycles; electric vehicles, namely, automobiles, single-seater small size electric vehicles and one-seater cars; engines for land vehicles; fork lift trucks; concrete mixing trucks; tractors.

[2] Both applications were advertised for opposition purposes in the *Trade-marks Journal* of March 7, 2007.

[3] On May 2, 2007, Volvo Trade-mark Holding AB (the Opponent) filed a statement of opposition against each of the applications. The grounds of opposition in each case are (i) that the Applicant's applications do not conform to the requirements of s. 30(i) of the *Trade-marks Act*, R.S.C. 1985, c. T-13 (the Act), (ii) the Marks are not registrable pursuant to s. 12(1)(d) in view of Opponent's registration TMA109,888 for the trade-mark VOLVO [see Schedule A for the list of wares and services], (iii) the Applicant is not the person entitled to registration of the Marks pursuant to s. 16(3)(a), and (iv) that the Marks are not distinctive in view of the Opponent's VOLVO trade-marks. The issue of entitlement under the third ground of opposition is based on the Opponent's registration TMA109,888, as well as the trade-mark VOLVO & Design, Application No. 1,307,874, allowed on November 9, 2007, as shown below:



The VOLVO & Design trade-mark has been used in Canada as early as 2005 in association with the following wares:

- i) *construction machines, namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines namely, wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, motor graders, backhoe loaders and drive units;*
- ii) *vehicles, namely cars, vans, sport-utility vehicles, buses, trucks, tractor units/prime movers, on and off road vehicles/dump trucks.*

[4] The Opponent alleges that in each case, its trade-mark is a famous trade-mark. In support, the Opponent also relies on its trade-mark registration TMA110, 061 for VOLVO & ARROW Design registered in Canada in 1958 and stated to have been in use in Canada until the commencement of the VOLVO word mark and VOLVO & Design mark referred to above.

[5] The Applicant filed and served a counter statement in each case, in which it denied the Opponent's allegations.

[6] As its evidence in each case, the Opponent filed an affidavit of Monica Dempe, together with Exhibits MD-1 to MD-61. The Applicant's evidence, in each case, consists of the affidavit of Jennifer Leah Stecyk and the declaration of Li Xiaogao. The Opponent's reply evidence in each case consists of another affidavit of Monica Dempe. Ms. Dempe was cross-examined on this affidavit, and the cross-examination transcript and replies to undertakings form part of the record in both oppositions.

[7] Both the Applicant and the Opponent submitted written arguments and were represented at an oral hearing; both cases were heard together.

Onus and Material Dates

[8] The Applicant bears the legal onus of establishing, on a balance of probabilities, that its application complies with the requirements of the Act. There is, however, an initial evidential burden on the Opponent to adduce sufficient admissible evidence from which it could reasonably be concluded that the facts alleged to support each ground of opposition exist [see *John Labatt Limited v. The Molson Companies Limited* (1990), 30 C.P.R. (3d) 293 (F.C.T.D.) at 298; *Dion Neckwear Ltd. v. Christian Dior, S.A. et al* (2002), 20 C.P.R. (4th) 155 (F.C.A.)].

[9] The material dates that apply to the grounds of opposition in each case are as follows :

- s. 30 – the filing date of the application [see *Georgia-Pacific Corp. v. Scott Paper Ltd.* (1984), 3 C.P.R. (3d) 469 (T.M.O.B.) at 475];
- s. 12(1)(d) – the date of my decision [see *Park Avenue Furniture Corporation v. Wickes/Simmons Bedding Ltd. and The Registrar of Trade-marks* (1991), 37 C.P.R. (3d) 413 (F.C.A.)];
- s. 16(3) – the filing date of the application [see s. 16(3)];
- non-distinctiveness – the date of filing of the opposition [see *Metro-Goldwyn-Mayer Inc. v. Stargate Connections Inc.* (2004), 34 C.P.R. (4th) 317 (F.C.)].

The Opponent's Evidence

[10] As previously indicated, the Opponent's evidence in chief consists of the affidavit of Monica Dempe. Ms Dempe is the Managing Director of the Opponent. The affiant provides details of the trade-marks relied on in this proceeding (TMA109,888 for VOLVO; TMA110,061 for VOLVO & ARROW Design; application No. 1,307,874 for VOLVO & Design filed on July 4, 2006).

[11] The affidavit provides that the VOLVO word mark was registered in Canada in 1958, and has been used extensively in connection with, *inter alia* "tractors, trucks, motorcars and parts thereof including engines". The VOLVO & ARROW Design mark, was registered in Canada in 1958 and has been used extensively for numerous years in connection with, *inter alia*, "tractors, motor cars and trucks" until the commencement of use in Canada of the updated version, as represented in application No. 1,307, 874. Collectively these trade-marks are referred to as the VOLVO trade-marks.

[12] The two owners of the Opponent, Aktiebolaget Volvo and Volvo Car Corporation, are licensed by the Opponent to use the VOLVO trade-marks. It appears from the attached licence agreements (Exhibits MD-1 and MD-2) that such use may also be sub-licensed to their respective subsidiaries and related companies (the Volvo group of Companies). I note that in accordance with the agreements the requisite control exists pursuant to s.50 of the Act, such that any use by these entities will accrue to the benefit of the Opponent.

[13] The affiant provides that trucks have been sold and related services have been offered in association with the VOLVO trade-marks in at least 75 points of service in Canada; total sales in Canada of trucks for the years 2001 to 2007 exceeded \$2,014,255,000. The associated advertising for the same years exceeded \$2,069,000.

[14] Construction equipment and related services have been offered in association with the VOLVO trade-marks in numerous locations in Canada; total sales in the Canada for the years 2002 to 2007 exceeded \$1,562,200,000. In 2007 alone the advertising expenses for construction equipment and related services exceeded \$612,000.

[15] Cars and related services have also been offered in association with the VOLVO trade-marks in numerous points of service in Canada. The total sales in Canada of cars for the years 1999 to 2006 exceeded \$3,118,698,000. Advertising expenses for cars and related services for the years 2001 to 2007 exceeded \$90,138,000.

[16] Attached as Exhibits MD-8 to MD-11 are examples of the various advertising of trucks and related services, such as advertising flyers (2007), a quarterly newsletter sent to customers by e-mail (2007), four billboards (Alberta) (2006-2007) and an advertising flyer from 2001.

[17] Attached as Exhibits MD-12 to MD-15 are examples of references to the VOLVO word mark in North American publications with distribution in Canada. These include articles from the February 2008 edition of *Highway Star*, the January 2008 edition of *Truck News*, the November-December 2007 edition of *Aggregate & Roadbuilding*, and an article in the December 2007 edition of *Road Today*. The affiant provides that the combined, global circulation figures for such publications in Canada is 627,000 copies per month.

[18] With a view to demonstrating the amount and nature of advertising that has taken place in relation to cars and related services in association with the VOLVO trade-marks, the affiant attaches a large volume of examples from daily newspapers across Canada, examples of radio and television advertising, as well as a list of auto awards since 2001.

The Applicant's Evidence

[19] The Applicant submitted the declaration of Li Xiaogao, its Deputy Chief Branding Officer, which sets out the history of the LOVOL trade-marks and in particular the evolution of the word LOVOL. In brief, it appears that a mark was initially created by the Applicant's predecessor in title (Beiqi Foton Motor Co., Ltd.), in Chinese characters, the transliteration of which is "Lei Wo". The design team then created an English trade-mark, LOVOL, which would be similar in sound to the Chinese mark and used for international sales. The affiant explains that the Mark also has visual significance, in that the V represents the frame of a vehicle, the letters O on each side of the V are the wheels, and the L at each end of the word represents handles found on agricultural equipment such as reapers and harvesters. Mr. Li Xiaogao states that the symmetry of the Mark is also significant.

[20] On March 16, 2006, the Marks were assigned to the Applicant.

[21] Mr. Li Xiaogao provides that the Marks have been displayed on equipment since March 16, 2006. More than 13,000 units of products bearing the Marks have been sold in more than 20 countries around the world, generating revenues in excess of \$100 million USD. Products bearing the Marks range in price from 2,000 Yuan for an electric bicycle to 5,000,000 RMB Yuan for a rotary drilling rig. I note that the subject applications are based on proposed use in Canada, and that at the date of Mr. Li Xiaogao's declaration there was no evidence that any use in Canada has commenced.

[22] The affiant provides a list that includes 18 countries where the Mark is registered; copies of those registrations are attached (Exhibit C). The Opponent has filed oppositions against the Mark in several countries of the world, most of which were unsuccessful; copies of the decisions are attached (Exhibit D). Mr. Li Xiaogao states that certain oppositions remain under appeal in other jurisdictions, and states further that in one jurisdiction, Saudi Arabia, the Opponent was successful due to an inadvertently missed deadline on the part of the Applicant.

[23] The affidavit of Jennifer Stecyk relates to the rate of currency exchange on November 28, 2008, establishing Canadian dollar equivalents of the Chinese currency referred to by Mr. Li Xiaogao. It appears that on November 28, 2007, 2,000.00 China Yuan Renminbi was equal to \$362.319 CAD, and 5,000,000.00 China Yuan Renminbi was equal to \$905, 796.94 CAD.

The Opponent's Reply Evidence

[24] The reply affidavit of Monica Dempe attaches copies of decisions in favour of the Opponent in Saudi Arabia and the United Arab Emirates.

[25] Ms. Dempe also provides, as Exhibit MD-5, a copy of a web page from the Applicant's website *www.fotonlov.com*, which (according to Ms. Dempe's cross examination) references the results of a search by the Opponent's Chinese associates of the Applicant's website for the word VOLVO. The results indicated one hit within a sentence that reads: "On April 15, VOLVO held the TPS knowledge contest under the theme of "Improvement, Development and Participation from All Employment in the Training Center." It appears that this news item should have referenced LOVOL rather than VOLVO (Dempe Cross-Examination). Information, in the

form of a letter to the Opponent from the Applicant, that was part of the record in a proceeding in the United States, was provided during the course of Ms. Dempe's cross-examination (Exhibit 2 to the Dempe cross-examination), which indicates that the error was made by a clerk hired by a licensee of the Applicant, which error was corrected as soon as it was discovered.

Non-registrability Ground of Opposition - s. 12(1)(d) of the Act

[26] An opponent's initial onus is met with respect to a s. 12(1)(d) ground of opposition if the registration relied upon is in good standing. The Registrar has the discretion to check the register in order to confirm the existence of the registration relied upon by an opponent [see *Quaker Oats of Canada Ltd./La Compagnie Quaker Oats du Canada Ltée v. Menu foods Ltd.* (1986), 11 C.P.R. (3d) 410 (T.M.O.B.)]. I have exercised that discretion and confirm that the Opponent's registration TMA109,888 for the trade-mark VOLVO remains in good standing. As the Opponent has therefore satisfied its evidential burden, the Applicant must therefore establish, on a balance of probabilities, that as of today's date there is not a reasonable likelihood of confusion between the Marks and the Opponent's registered mark.

[27] The test for confusion is one of first impression and imperfect recollection. Section 6(2) of the Act indicates that the use of a trade-mark causes confusion with another trade-mark if the use of both trade-marks in the same area would be likely to lead to the inference that the wares or services associated with those trade-marks are manufactured, sold, leased, hired or performed by the same person, whether or not the wares or services are of the same general class. In applying the test for confusion, the Registrar must have regard to all surrounding circumstances, including those specifically enumerated in s. 6(5) of the Act, namely: a) the inherent distinctiveness of the trade-marks or trade-names and the extent to which they have become known; b) the length of time each has been in use; c) the nature of the wares, services or business; d) the nature of the trade; and e) the degree of resemblance between the trade-marks or trade-names in appearance or sound or in the ideas suggested by them. The above-noted criteria are not exhaustive and it is not necessary to give each one of them equal weight [see, in general, *Mattel, Inc. v. 3894207 Canada Inc.* (2006), 49 C.P.R. (4th) 321 (S.C.C.) and *Veuve Clicquot Ponsardin v. Boutiques Cliquot Ltée* (2006), 49 C.P.R. (4th) 401].

[28] In its recent judgment in *Masterpiece Inc. v. Alavida Lifestyles Inc. et al.* (2011), 92 C.P.R. (4th) 361 (S.C.C.), the Supreme Court of Canada clearly indicated that the most important factor amongst those listed under s. 6(5) of the Act is often the degree of resemblance between the marks. In considering the importance of s. 6(5)(e) in conducting an analysis of the likelihood of confusion, the Court commented at paragraph 49:

...the degree of resemblance, although the last factor listed in s. 6(5), is the statutory factor that is often likely to have the greatest effect on the confusion analysis ... if the marks or names do not resemble one another, it is unlikely that even a strong finding on the remaining factors would lead to a likelihood of confusion. The other factors become significant only once the marks are found to be identical or very similar... As a result, it has been suggested that a consideration of resemblance is where most confusion analyses should start.

[29] I will therefore commence the analysis of the likelihood of confusion by considering the degree of resemblance of the Applicant's Marks with the Opponent's trade-mark VOLVO , as this will influence the need for consideration of the other factors.

[30] The Opponent argues in its written argument, that both the Marks and the Opponent's registered mark are composed of the same letters, with the first syllable of the VOLVO trade-mark being identical to the second syllable of the LOVOL trade-marks. Thus, it argues that there is a significant degree of resemblance both visually and phonetically.

[31] The Applicant argues that the differences between the trade-marks in appearance, sound and idea are sufficient to negate the likelihood of confusion. More particularly, the Applicant submits that the first portion of its Marks, and the first portion of the word VOLVO, generally being the most important portion for the purposes of distinguishing between trade-marks, are different. Accordingly, it argues that when considering the marks in their entirety, the marks bear little visual or phonetic resemblance to each other. The Applicant further submits that the trade-marks at issue are coined terms that do not create any specific commercial impressions.

[32] With respect to the ideas suggested by the marks, although the Li Xiaogao declaration discusses the Chinese origins of the mark LOVOL, the Opponent argues that neither party can claim that its trade-mark conveys any specific idea in English or in French. I agree, despite the apparent evolution of the Applicant's Marks and its relationship to the Chinese language, there is no evidence that the relevant consumer would attach any such meaning to the word LOVOL.

[33] With respect to the resemblance in appearance or when sounded, certainly, it is self-evident that each of the marks contains the letters “V”, “O”, and “L”, in that order. It is a generally accepted principle that it is not the proper approach to break the marks into their elements and concentrate upon the elements that are similar, since it is the effect of the marks in their totalities that must be considered [see *Ultravite Laboratories Ltd. v. Whitehall Laboratories Ltd.* (1965), 44 C.P.R. 189 (S.C.C.)]. However, one must also consider the approach of Mr. Justice Rothstein in *Masterpiece, supra* at paragraph 64: “While the first word may, for the purposes of distinctiveness, be the most important in some cases, I think the preferable approach is to first consider whether there is an aspect of the trade-mark that is particularly striking or unique.” Thus one must also consider whether or not the common element VOL is particularly striking or unique, to the extent that the placement of these letters at any point in a word would create the likelihood of confusion with the VOLVO trade-mark visually or when sounded. After careful consideration, I do not think that the element VOL is such a striking element; the mark as a whole is a coined word, the element VOL has not been shown to have particular significance of its own, thus, having regard to the effect of the marks as a whole, I find the similarity between the marks to be minimal. I am of the view that in the absence of an aspect that is “particularly striking or unique”, one cannot overlook the obvious differences, most notably the first portion of the marks.

[34] The Opponent also vigorously argues that the remaining s. 6(5) factors favour the Opponent. In particular, it argues that although both marks are inherently distinctive, extensive use of the VOLVO trade-mark to the point where it can be considered a famous mark results in the s. 6(5)(a) factor clearly being in its favour. Given such extensive use of this mark since 1958, and that the Applicant’s Marks have not been used in Canada, the Opponent argues that the s. 6(5)(b) factor also favours the Opponent. With respect to the s. 6(5)(c) and (d) factors, namely, the nature of the wares, services or business and the nature of the trade, the Opponent submits that the wares associated with the Applicant’s Marks are either identical or similar to those associated with the Opponent’s registered mark.

[35] The Applicant, on the other hand, while acknowledging that the extent to which the Opponent’s mark has become known over the years in Canada results in the first factor favouring the Opponent, argues that the s. 6(5)(b) factor does not favour either party. In this regard, it

submits that the Opponent has not provided any evidence that would satisfy the s. 4(1) criteria of use in respect of its wares. Furthermore, it argues that although the wares of the Applicant and Opponent overlap, the expensive nature of the wares of the parties and the specialized nature of their respective trades minimizes the risk of confusion as such goods are purchased only after careful consideration.

[36] In applying the test for confusion, I have considered it as a matter of first impression and imperfect recollection. While the Opponent may, on balance, be favoured by the s. 6(5)(a) through (d) factors, I find that there are significant differences between the Marks and the trademark VOLVO in appearance and when sounded; these differences, in my view, outweigh factors (a) through (d).

[37] As an additional surrounding circumstance, both parties submitted evidence with respect to opposition decisions in foreign jurisdictions involving the same or similar trade-marks and the same parties. However, cases decided in foreign jurisdictions have no precedential authority on this Board [*Origins Natural Resources v. Warnaco U.S.* (2000) 9 C.P.R. (4th) 540 (T.M.O.B.); see also *Vivat Holdings Ltd. v. Levi Strauss & Co.* (2005), 41 C.P.R. (4th) 8 (F.C.T.D.)]. In any event, I see nothing persuasive in these cases or evidence of a pattern of outcomes in similar jurisdictions with similar laws which would be relevant in this proceeding.

[38] Lastly, as one further surrounding circumstance in the confusion analysis, the Opponent alleges an incident of actual confusion, referring to its printout of search results for “Volvo” on the Applicant’s website *www.fotonlovol.com* [Exhibit MD-5 to the Dempe affidavit filed in reply]. The search results indicate that one reference to “Volvo” was found in the context of identifying a company as set out in paragraph [26] above.

[39] The reference to VOLVO was the result of a clerical error made by an employee of a licensee of the Applicant, and in my view, this situation does not represent confusion in the mind of a *consumer* in the marketplace within the generally accepted principles of confusion [*Mattel, Inc., and Veuve Clicquot, supra*]. Rather, it appears that an error was made by the applicant company (or its licensee) itself, with any number of explanations equally as likely as confusion in the mind of the person writing the text for the website. Thus, in my view, this situation does

not represent compelling evidence of actual confusion in the mind of the relevant Canadian consumer.

[40] In view of all of the foregoing, I find that the Applicant has met the legal onus on it to show that, on a balance of probabilities, there is no reasonable likelihood of confusion between the Marks and the Opponent's trade-mark. Accordingly, the s. 12(1)(d) ground of opposition is dismissed.

Non-Entitlement Ground of Opposition – s. 16(3)(a)

[41] The Opponent has the initial onus of proving that one or both of the trade-marks alleged in support of its ground of opposition based on s. 16(3)(a) of the Act, namely, VOLVO and VOLVO & Design, were used or made known prior to the filing date of the Applicant's applications (April 20, 2006) and were not abandoned at the date of advertisement of the applications for the Marks (March 7, 2007) [s. 16(5) of the Act].

[42] The Opponent has supplied ample evidence of use of its Marks at the material dates; however, (the difference in material date not being significant here) my conclusions under the ground of opposition based on s. 12(1)(d) of the Act are equally applicable here. The design features of application No. 1,307,874 do not affect the outcome of the confusion analysis. Consequently, the s. 16(3) ground of opposition is dismissed.

Non-Distinctiveness Ground of Opposition – s. 38(2)(d) of the Act

[43] In order to meet its initial burden under this ground, the Opponent must show that as of the filing of the statement of opposition, namely, May 2, 2007, the Opponent's VOLVO trade-marks had become known sufficiently to negate the distinctiveness of the Marks [*Metro-Goldwyn-Mayer Inc. v. Stargate Connections Inc.*, *supra*; *Motel 6, Inc. v. No. 6 Motel Ltd.* (1981), 56 C.P.R. (2d) 44 at 58 (F.C.T.D.)].

[44] Clearly, the evidence supports the conclusion that Opponent's trade-marks are very well-known in Canada; the legal onus is on the Applicant to show that its Marks are adapted to distinguish or actually distinguish its wares from those of the Opponent [see *Muffin Houses Incorporated v. The Muffin House Bakery Ltd.* (1985), 4 C.P.R. (3d) 272 (T.M.O.B.)]. As I have

found that there is no likelihood of confusion under s. 12(1)(d), the difference in material dates not being significant in this case, the determination under the ground of opposition based on s. 12(1)(d) of the Act is equally applicable here. Furthermore, the design features of TMA110,061 and application No. 1,307,874 do not affect the outcome of this analysis. Consequently, this ground of opposition is also dismissed.

Non-compliance Ground of Opposition - Section 30(i) of the Act

[45] Where an applicant has provided the statement required by s. 30(i), a s. 30(i) ground should only succeed in exceptional cases such as where there is evidence of bad faith on the part of the applicant (see *Sapodilla Co. Ltd. v. Bristol-Myers Co.* (1974), 15 C.P.R. (2d) 152 (T.M.O.B.) at 155). As the Applicant has provided the necessary statement in both applications and there is no evidence that this is an exceptional case, the s. 30(i) ground is dismissed.

Disposition

[46] Pursuant to the authority delegated to me under s. 63(3) of the Act, I reject both oppositions pursuant to s. 38(8) of the Act.

P. Heidi Sprung
Member
Trade-marks Opposition Board
Canadian Intellectual Property Office

Schedule A

WARES

- (1) Tractors, motor-cars and parts thereof including engines.
- (2) Construction equipment, parts, components and attachments therefore, namely; loaders of all kinds.
- (3) Construction equipment, parts, components and attachments therefore, namely; dump trucks and on-and-off highway haulage vehicles.
- (4) Forestry equipment, parts, components and attachments therefore, namely: log (grapple) loaders, forwarders and clam bunk skidders.
- (5) Forestry equipment, parts, components and attachments therefore, namely: processors (delimber-slasher-sorter).
- (6) Forestry equipment, namely on-and-off highway haulage vehicles, and harvesters, and parts, components and attachments for the same.
- (7) Brake fluids, fluids for hydraulic systems, antifreeze compounds, rubber and plastic cements, plastics.
- (8) Surface finishes for motor vehicles, namely paints, diluents, putty, anticorrosive agents.
- (9) Car and engine washing detergents windshield washer fluids, wax, polish.
- (10) Lock lubricants.
- (11) First-aid kits.
- (12) Non-electrical cables, cable terminals, speedometer cables, locks, metallic tubes, metallic hoses, pipe connections, screws, bolts, nuts, rivets, lock washers, spring washers, flat washers, plugs, split pins, shims, spacer rings, bushings, clamps and clips, woodruff keys, screw unions, spring bolts, shackles, ball joints, hinges, brackets, oil and fuel tanks, tank accessories, nipples, fuel cans, metallic ladders and handles, metallic signs, wire baskets, metal wire.
- (13) Manually handled lifting jacks, rim crosses, ice scrapers, hand tools for repair and service.
- (14) Electric batteries, compasses, capacitors, relays, electronic time relays, switches, fuses, electrical contacts, electrical sockets, electrical fans electrical cigarette lighters, radio sets, tape players, loudspeakers, interference suppressors, antennas, measuring instruments for fuel, oil pressure, tyre pressure, compressed air, temperatures, amperage, speed and engine revolutions, mileage recorders, time recorders, rudder indicators, instrument panels, dipsticks, thermostats,

signal lamps; dynamometers, brake testers, electrical and mechanical instruments and apparatus for control and testing in service and repair workshops; automatic alarm units, warning reflectors; fire extinguishing apparatus, electronic monitors and regulators for engines and motors.

(15) Headlights, lanterns, bulbs; heating and air conditioning apparatus, radiators, ventilators, metallic valves for pipes, combustion apparatus and cleaning apparatus for gases.

(16) Marine engines, aircraft engines, engines for industrial, agricultural and forestry machines, stationary combustion engines as well as components of all such engines, turbines (not for land vehicles), electric motors and generators; converters for liquid fuels, injectors, vaporizers, ignition systems and components thereof, spark plugs, silencers/mufflers and spark arresters for combustion engines; rolling bearings, plain bearings, shafts, shaft seals, gearwheels, drive wheels, pulleys, drive chains and belts, springs, filters, pumps, regulators, relief valves, controls, cooling fans, fan belts, all for machines and motors; power transmissions, transmissions, reverse gears, reduction gears, shaft connections, couplings and clutches (none for land vehicles); inboard/outboard drive units and sailing boat drive units for inboard engines; hydraulic pumps and motors and components thereof, hydraulic valves, boost units for hydraulic transmissions, compressors, compressed air cylinders and motors, bilge pumps, separators, machine tools and tools therefore, hydraulic lift jacks, body and frame aligners, packing and labeling machines, conveyors, conveyor belts, loading and handling machines for pressing plants and foundries and machines for the tooling of blanks; motor graders, digging machines, as well as components of all such machines; hydraulic lifting apparatus, cranes, winches; bucket grapple and fork type implements for machines, teeth and cutting edges for machines.

(17) Cars, buses, trucks, military vehicles, and parts and accessories for these items, namely vehicle chassis; engines; starter motors, silencers/mufflers, spark eliminators, power transmissions, gearboxes/transmissions, axles, shafts and couplings as well as parts for these items, all for land vehicles; trailer hitches, power take-offs, springs, shock absorbers, fan belts, level regulators, wheels, wheel bearings, hubs, hub caps, tyres, anti-slip chains, mud flaps, brakes, brake lining, bumpers, mudguards/fenders, cabs, doors, seats, safety seats, seat covers, seat belts, steering wheels, anti-theft devices, glass panes, windshield and headlight wipers, wiper blades, driving mirrors, tank caps, roof racks and ski racks, all for vehicles; propellers, trimming vanes, steering units, steering wheels, fittings, portholes and hatches for boats as well as parts for these items.

- (18) Instruction books, printed matter namely catalogues, instructional and educational publications.
- (19) Rubber supports for engines, reflex tape, oil sealings, felt rings, sealing and locking fluid, stuffings for engines and machines, sealing compound, sound insulation materials, non-metallic tubes, pipe connection parts for radiator systems, radiator sealing compounds.
- (20) Boxes of artificial leather for the storage and transportation of various types of small articles of a personal nature and for mechanical use; baggage bags.
- (21) Sponges, car wash leather.
- (22) Tow-ropes, tarpaulins, safety nets, spare wheel covers.
- (23) Blankets, plaids, winter seat covers.
- (24) Ribbons.
- (25) Carpets and rubber mats for vehicles.
- (26) Jewellery, precious stones, smokers' articles, namely ash trays and cigarette lighters, cuff-links, tie clips, coins, medals, lapel pins, rings, model vehicles; horological and chronometric instruments, namely clocks and watches, travel alarm clocks; clothing, namely, belts, gloves, jackets, coats, pullovers, shawls, shirts, blouses, waistcoats, socks, scarves, ties, sweaters, T-shirts, overalls, coveralls, rain wear, trousers, bathrobes, headgear namely caps, hats; footwear, namely, casual shoes; games, playthings and toys, namely, scale model vehicles, plush animals, games equipment namely video games and computer games, balloons, and beach balls; decoration for Christmas trees; gymnastic and sporting articles, namely, golf clubs, golf gloves, bags and balls for golf.

SERVICES:

- (1) Retail services and wholesale, namely in respect of vehicles, engines/motors and machines, namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders as well as of parts, fittings and accessories for the aforesaid wares, and of tools and workshop equipment, and of promotional materials relating to the said vehicles and machines; advertising for others, organization of promotional programs, office functions, business administration (including bookkeeping), business management and business management advisory services, statistics gathering all for third parties and in particular

relating to the design, development, manufacture, sale, distribution, repair or maintenance of vehicles, engines/motors and machines namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders and of parts, fittings and accessories for such wares.

(2) Business management and consultation services in the field of rental of construction equipment; franchising services namely, selling franchises, offering technical assistance in the establishment and/or operation of franchises in the field of rental to third parties of construction equipment.

(3) Monetary and financial services, namely credit card services; insurance, warranty, financing, hire purchase and lease purchase financing services and leasing, all for vehicles, engines/motors and machines namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders and for drive units, construction, transport, agricultural and forestry machines, for parts, fittings and accessories for the aforesaid wares and to tools and workshop equipment.

(4) Building construction; installation, service, repair, inspection, restoration, maintenance, reconditioning, diagnostic tuning, cleaning, painting, polishing and preservation services in relation to vehicles, engines/motors and machines, namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders, agricultural and forestry machines, power hand tools, workshop appliances or parts, fittings and accessories for the aforesaid, telecommunication equipment namely telephones, mobile telephones computer software and computer hardware, GPS equipment; emergency road side assistance for vehicles; rental to third parties of vehicles, engines/motors and machines namely excavators, loaders, dumper bodies, wood working machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders, construction, agricultural and forestry machines and of tools; reservation of

garage services namely appointments and scheduling of servicing appointments for vehicles.

(5) Rental to third parties of construction equipment.

(6) Internet, telecommunication and satellite communication services, namely, telephone services relating to vehicle radio telephones, paging services, logistic services, use of global position system technology integrated with computers and mobile communications technology for the purpose of assistance via a service and alarm center for transport and traffic, namely checking (supervision), positioning and (remote) control/automatic control of land vehicles, aircraft and watercrafts, collection and supply of information as well as provision of a service-hotline (in particular with respect to traffic and technical information, and with respect to sports and entertainment); unidirectional or bi-directional transmission of text, voice and alarm messages and of signal, measuring, sound, image, video, position, movement, state and working hour data between land vehicles, air vehicles, watercraft and locomotion systems, the load thereof as well as between engines/motors and machines namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders and a wide variety of services points (also on the Internet), for emergency services, breakdown services and traffic information as well as for the remote checking (supervision) and remote control/remote automatic control of land vehicles, air vehicles, watercraft and locomotion systems, the load thereof as well as of engines/motors and machines namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders; communication via the Internet, namely mobile vehicle radio telephone services, paging services, transmission of information via computers, computer aided transmission of messages and images, all for third parties and in relation to vehicles, engines/motors and machines, namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders, agricultural and forestry machines.

(7) Transport of goods and persons namely truck transportation services; salvaging,

transportation, warehousing and rescue services and operations in an emergency and provision of this; packaging, warehousing and distribution of goods; rental of vehicles, engines/motors and machines namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders, and drive units, and of tools and workshop equipment; consultation in the field of traffic and transport, including use of global position system technology integrated with computers and mobile communications technology for the purpose of assistance via a service and alarm center for transport and traffic, namely checking (supervision), positioning and (remote) control/automatic control of land vehicles, aircraft and watercrafts; logistic services in relation to storage and transportation of goods and vehicles; vehicle fleet management, fleet control; use of global position system technology integrated with computers and mobile communications technology for the purpose of assistance via a service and alarm center for transport and traffic, namely checking (supervision), positioning and (remote) control/automatic control of land vehicles, aircraft, watercraft and locomotion systems, the load thereof as well as of engines/motors and machines namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders and drive units as well as intervention and help for persons and vehicles in the case of accident, breakdown, raid or theft; traffic information and control services; route guidance services.

(8) Treatment of materials, namely engraving, surface treatment and finishing of metals, plastics, textiles, glass, wood, leather, rubber and of ceramics, namely for use for vehicles, engines/motors and machines namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders and drive units, and for parts, fittings and accessories thereof; recycling, incineration and destruction namely of vehicles, engines/motors and machines namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators,

compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders and drive units, and of parts and accessories thereof.

(9) Education and training services in the field of vehicles, engines/motors and machines namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders and drive units, and of parts and accessories thereof; organisation of exhibitions for educational purposes; entertainment in the nature of sporting events namely motor sport races, golf tournaments, sailing regatta/races, ski races, tennis competitions/tournaments, equestrian show jumping and dressage competitions/tournaments and biking competitions/tournaments; arrangement of prize competitions; conducting of concerts, science fairs, science projects and science competitions; provision of sports facilities and sports camps; technical services, namely maintenance and repair for motor vehicles during motor-sports events.

(10) Scientific and technological services and research and design relating thereto in the field of vehicles, engines/motors and machines namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders and drive units; technical consultation and preparation of expert opinions in the field of vehicles, engines/motors and machines namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders and drive units; engineering services in the field of vehicles, engines/motors and machines namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders and drive units; services in connection with research development and testing of new products; data processing, computer programming, installation, maintenance and care of computer programs, in particular in the field of technical engineering, logistics and traffic and transport telematic for others; design and

development of computer hardware and software in the field of vehicles, engines/motors and machines namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders and drive units, guard-duty services namely alarming of ambulance, police, fire and rescue brigade; theft notification; stolen vehicle tracking; operation of data processing centers, service and alarm centers for transport and traffic, namely the detection, checking (supervision), evaluation and processing of alarm messages, and signal, measuring, sound, image, video, position, movement, state and working hour data and (remote) control/automatic control of land vehicles, air vehicles and aircraft, locomotion systems, the load thereof as well as of engines/motors and machines namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders and drive units; sorting of waste and recyclable material, in particular from vehicles, engines/motors and machines namely excavators, loaders, dumper bodies, wood working machines, agricultural and forestry machines, packing and labelling machines, earth moving machines, namely wheeled excavators, compact wheel loaders, crawler excavators, compact excavators, wheel loaders, earth moving machines, namely motor graders, backhoe loaders and drive units, and from parts and accessories thereof; technical consultation in the field of recycling.

(11) Operation of hotels; operation of restaurant and catering services to third parties.