



**COMMON PRACTICE**  
**SIGNS DESCRIBING THE SUBJECT**  
**MATTER OF GOODS AND/OR SERVICES**

FEBRUARY 2026

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## 1 INTRODUCTION

### 1.1 Objective of this document

This Common Practice establishes a common understanding of the **notion of subject matter**, as well as general principles on how to perform the assessment of signs describing the subject matter of the goods and/or services for which protection is sought. It also provides a non-exhaustive list of examples illustrating signs that are considered descriptive of the subject matter of the goods and/or services, as well as examples of signs that are not. It serves as a reference for the European Union Intellectual Property Office (EUIPO), the Benelux Office for Intellectual Property, and Member States' Intellectual Property Offices (MS IPOs) – collectively referred to as IPOs; as well as for User Associations (UAs); applicants and representatives.

It will be made widely available and will be easily accessible, providing a clear and comprehensive explanation of the principles on which the Common Practice is based. The principles of the Common Practice are designed to be generally applied and aim to cover the large majority of cases where a subject matter objection may be raised. **Although the assessment of whether a sign is descriptive of the subject matter of the goods and/or services for which protection is sought will always be carried out on a case-by-case basis**, the principles mentioned in this document serve as guidance to ensure that different IPOs approach it in a similar and predictable way. The examples in this document aim to illustrate the principles of the Common Practice and should be looked at within the context in which they are presented.

### 1.2 Background

IPOs and UAs have been actively cooperating to converge trade mark and design practices since 2011. Through the Convergence Programme (2011-2015), seven areas of trade mark and design practice were harmonised (CP1-CP7) <sup>(1)</sup>. In December 2015, the European Parliament and the European Council adopted the EU trade mark reform package <sup>(2)</sup>, under which cooperation with the MS IPOs to promote convergence of practices and tools in the fields of trade marks and designs, in particular to establish common practices, became a core task for the EUIPO (Articles 151-152 EUTMR). Consequently, the European Cooperation Projects were launched in 2016 and continued during the 2025 EUIPO Strategic Plan. Among them was the Convergence Analysis project (later Convergence Analysis 2.0), which identified areas where convergence in trade mark and design practices would be most beneficial. As a result, eight further Common Practices were widely developed and implemented across the EU (CP8-CP15) <sup>(3)</sup>.

Following the approval of the 2030 EUIPO Strategic Plan by the EUIPO Management Board in November 2024, convergence initiatives continued under a new methodology. **CP16** was launched in February 2025, under the title '**Signs describing the subject matter of goods and/or services**'. In the project, representatives from IPOs and UAs worked closely together, via a Virtual Community (VC) to develop common principles. These draw upon various sources, in particular: the [EUIPO Guidelines](#), MS IPOs' Guidelines (available in the [EUIPN IP repository](#)), the EUIPO Boards of Appeal (BoA) [Case-law Research Report on descriptiveness of a sign suggesting the subject matter of advertising services](#), and information gathered through a questionnaire sent to all MS IPOs and UAs in May 2022. The result of this collaborative effort is the Common Practice outlined in this document.

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<sup>(1)</sup> <https://www.euipn.org/en/practices>

<sup>(2)</sup> This consisted of [Regulation \(EU\) No 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark \(EUTMR\)](#) and [Directive \(EU\) No 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks \(TMD\)](#).

<sup>(3)</sup> <https://www.euipn.org/en/practices>

### 1.3 Practice scope

The following issues are **in scope** of the Common Practice:

- common understanding of the **notion of subject matter**;
- aspects to be considered when assessing descriptiveness of signs that may serve, in trade, to designate the subject matter of the goods and/or services for which protection is sought under Article 4(1)(c) TMD <sup>(4)</sup>; and
- examples to illustrate how to assess whether a sign is descriptive of the subject matter of the goods and/or services for which protection is sought.

The following issues are **out of scope** of the Common Practice:

- signs that consist of the title of well-known books, films or other works of art;
- signs that consist of the name of a (famous) person/author;
- procedural aspects pertaining to each MS IPO;
- assessment per se of characteristics of the goods and/or services mentioned (or not) in Article 4(1)(c) TMD, other than the subject matter of the goods and/or services (e.g. kind, quality, intended purpose);
- assessment of any other absolute ground for refusal of Article 4(1) TMD;
- assessment of other types of marks, different from word marks;
- assessment per se of specific market realities in each Member State. This matter is addressed in the Common Practice to the extent that it is an aspect that may influence the consumer perception; however, its assessment in each Member State remains out of the scope of the project;
- acquired distinctiveness through use;
- the limitation/amendment of the list of goods and/or services to overcome an objection based on the sign being descriptive of the subject matter of the goods and/or services for which protection is sought;
- description of legal constraints preventing implementations in particular MS IPOs;
- language-related issues, as well as historical, social and cultural differences that may arise as regards the examples that might be used in the Common Practice (i.e. all examples are in English, and it will be assumed that they will be understood as a native English speaker would understand them); and
- definition and/or assessment of 'thematic style' (\*).

(\*) **Note:** A distinction can be made between '**thematic content**' and '**thematic style**'. '**Thematic content**' refers to the specific ideas, subjects, or messages that the goods or services may relate to. In contrast, the '**thematic style**' of, inter alia, a product or a service refers to consumers' perception through design, branding, and messaging. It defines how a theme is expressed through artistic choices such as tone, imagery, structure, symbolism, etc. In the context of this Common Practice, only the '**thematic content**' is relevant because, in principle, any good and/or service can adopt a '**thematic style**' without necessarily having 'thematic content'. For example, 'children's furniture with a dinosaur theme', 'hotel services with a pirate theme', 'party organisation with historical themes' can be understood to have 'thematic style' but not 'thematic content'. Accordingly, while the concept of 'thematic style' is referenced (see Section 2.1.2), its definition or assessment is beyond the scope of this document.

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<sup>(4)</sup> Although this Common Practice will focus on assessing whether a sign is considered descriptive of the subject matter of the goods and/or services for which protection is sought under Article 4(1)(c) TMD, the German Patent and Trade Mark Office (in accordance with the predominant German case-law) primarily refers to 'subject matter' when refusing a sign under Article 4(1)(b) TMD, particularly since differences may arise with regard to the extent to which the descriptive indication is understood by the public. In this case, the principles outlined in this document may in most respects be applied *mutatis mutandis*. The question as to where to draw a distinction between the two different grounds for refusal is out of scope.

## 1.4 Implementation

This Common Practice will take effect on the date specified by each IPO. The implementation date and further details are available in the table below.

### [List of implementing offices](#)

Implementing offices may choose to publish additional information on their websites.

**If there is a discrepancy between the translation of the Common Practice in any of the official languages of the European Union and the English version, the latter will prevail.**

## 2 THE COMMON PRACTICE

### 2.1 ‘The subject matter of the goods and/or services’ as a reason for refusal

#### 2.1.1 General context

According to **Article 4(1)(c) TMD**, trade marks which **consist exclusively of signs or indications which may serve, in trade, to designate** the kind, quality, quantity, intended purpose, value, geographical origin, or the time of production of the goods or of rendering of the service, **or other characteristics of the goods or services, shall not be registered or, if registered, shall be liable to be declared invalid.**

The assessment of signs that may serve, in trade, to designate one of the characteristics of the goods and/or services will have to be **assessed by reference to the goods and/or services for which protection is sought**, on the one hand, **and by reference to the understanding which the relevant public has of the sign**, on the other <sup>(5)</sup>.

As mentioned in case-law, the expression ‘*other characteristics of the goods or services*’ reflects that the list of characteristics provided in this provision is **not exhaustive**. Consequently, any other characteristic of the goods and/or services not mentioned therein may also be taken into account when assessing descriptiveness of signs <sup>(6)</sup>. This is the case of ‘the **subject matter of the goods and/or services**’, which, although **not expressly mentioned in Article 4(1)(c) TMD, is encompassed by the reference ‘other characteristics of the goods or services’**.

For a sign to fall under the ground for refusal set out under Article 4(1)(c) TMD, there must be a **sufficiently direct and specific relationship between the sign and the goods and/or services in question, such that it is reasonable to believe that it will actually be recognised by the relevant public as a description of the goods and/or services in question or, of one of their characteristics** <sup>(7)</sup>.

This Common Practice establishes general principles on how to identify whether the meaning conveyed by the sign describes the subject matter of the goods and/or services applied for and, therefore of one of their characteristics, within the meaning of Article 4(1)(c) TMD, and on how to determine the existence of a sufficiently direct link between the sign applied for and the subject matter of the goods and/or services for which protection is sought <sup>(8)</sup>.

<sup>(5)</sup> 06/12/2023, T-764/22, Bet365 (fig.), EU:T:2023:783, § 14.

<sup>(6)</sup> 12/06/2024, T-130/23, FOOTWARE, EU:T:2024:373, § 54; 10/03/2011, C-51/10 P, 1000, EU:C:2011:139, § 49.

<sup>(7)</sup> 10/03/2011, C-51/10 P, 1000, EU:C:2011:139, § 50; 20/07/2004, T-311/02, Limo, EU:T:2004:245, § 30; 30/11/2004, T-173/03, Nurseryroom, EU:T:2004:347, § 20; 06/12/2023, T-764/22, Bet365 (fig.), EU:T:2023:783, § 59.

<sup>(8)</sup> Although this Common Practice will focus on assessing whether a sign is considered descriptive of the subject matter of the goods and/or services for which protection is sought under Article 4(1)(c) TMD, the German Patent and Trade Mark

### 2.1.2 Common understanding of 'subject matter'

To understand 'subject matter' for the purposes of this Common Practice, reference is made to dictionaries, and to EU case-law.

- **Dictionary definitions**

- 'Subject matter':

The Oxford English Dictionary <sup>(9)</sup> indicates that 'subject matter' is, inter alia, '***the substance or principal content with which a mental artefact is concerned (e.g. the substance of a book, treatise, speech, etc.; that with which thought, deliberation, or discussion, or a contract, undertaking, project, etc., is concerned; that which is treated of or dealt with; or that with which a science, law, etc., deals; the body of facts or ideas with which a study is concerned)***'.

The Collins Dictionary <sup>(10)</sup> indicates that 'subject matter' is, inter alia, '***the substance or main theme of a book, discussion, debate, etc.***' It also mentions that '***the subject matter of something such as a book, lecture, film, or painting is the thing that is being written about, discussed, or shown.***'

- 'Thematic':

The Oxford English Dictionary <sup>(11)</sup> defines 'thematic', inter alia, as '***of, relating to, or constituting subjects or themes, or a particular subject or theme; of, relating to, or constituting recurring or underlying ideas, images, or concerns in a work of art, literature, etc.***'

The Collins Dictionary <sup>(12)</sup> indicates that 'thematic' means '***concerned with the subject or theme of something, or with themes and topics in general***'.

In light of the above definitions, this Common Practice considers '**thematic content**' and '**subject matter**' to be synonymous terms.

A distinction should be made between '**thematic content**' and '**thematic style**', as they represent separate concepts. While both may appear in relation to goods and/or services, only '**thematic content**' is considered relevant for the purposes of this document. As stated in the out of scope section, the definition or assessment of 'thematic style' falls outside the remit of this Common Practice.

- **EU case-law**

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Office (in accordance with the predominant German case-law) primarily refers to 'subject matter' when refusing a sign under Article 4(1)(b) TMD, particularly since differences may arise with regard to the extent to which the descriptive indication is understood by the public. In this case, the principles outlined in this document may in most respects be applied *mutatis mutandis*. The question as to where to draw a distinction between the two different grounds for refusal is out of scope.

<sup>(9)</sup> Oxford English Dictionary (2012) Available from: [https://www.oed.com/dictionary/subject-matter\\_n?tab=meaning\\_and\\_use#20062320](https://www.oed.com/dictionary/subject-matter_n?tab=meaning_and_use#20062320) [Accessed 10 February 2025].

<sup>(10)</sup> Collins Dictionary (2023) Available from: <https://www.collinsdictionary.com/dictionary/english/subject-matter> [Accessed 10 February 2025].

<sup>(11)</sup> Oxford English Dictionary (2012) Available from: [https://www.oed.com/dictionary/thematic\\_adj?tab=meaning\\_and\\_use#18803482](https://www.oed.com/dictionary/thematic_adj?tab=meaning_and_use#18803482) [Accessed 27 February 2025].

<sup>(12)</sup> Collins Dictionary (2023) Available from: <https://www.collinsdictionary.com/dictionary/english/thematic> [Accessed 27 February 2025].



There is no definition of the notion of subject matter in EU case-law. However, when assessing whether a sign may be describing the subject matter of the goods and/or services at issue, EU case-law employs the notion of 'subject matter' to refer to the:

- key element <sup>(13)</sup>,
- content <sup>(14)</sup>,
- area <sup>(15)</sup>,
- activity <sup>(16)</sup>,
- field <sup>(17)</sup>, or
- theme <sup>(18)</sup>

that any good or service relates to or consists of.

Analysis of EU case-law also shows that, **when assessing the descriptiveness of signs, 'subject matter' is generally used in connection with goods or services whose nature allows them to contain or relate to a specific thematic content.** For instance, in connection with:

- *data carriers; software; electronic publications (downloadable)* in Class 9 <sup>(19)</sup>;
- *books; magazines; printed matters* in Class 16 <sup>(20)</sup>;
- *games* in Class 28 <sup>(21)</sup>;
- *organisation of trade fairs* in Class 35 <sup>(22)</sup>; or
- *entertainment; education or training services* in Class 41 <sup>(23)</sup>.

#### • Notion of 'subject matter' for the purposes of this Common Practice

This Common Practice focuses mainly on the assessment of signs describing the subject matter of goods or services whose '**nature**' allows them to contain or relate to a specific thematic content.

The CP15 Common Practice related to the comparison of goods and services <sup>(24)</sup> explains that the term '**nature**' refers to the essential, basic, inherent features, qualities, or characteristics by which goods or services are recognised from a commercial perspective. It also mentions that, as **services** are intangible, **their nature** can be defined, in particular, by the kind or category of activity provided to third parties, and that in most cases, it is the category under which the service falls that defines its nature.

Thus, to assess whether the nature of the goods or services at issue allows them to contain or relate to a specific subject matter, the following will be considered:

<sup>(13)</sup> 14/03/2011, C-369/10 P, Memory, EU:C:2011:148, § 56.

<sup>(14)</sup> 23/09/2015, T-633/13, Infosecurity, EU:T:2015:674, § 53; 10/02/2021, T-153/20, Lightyoga, EU:T:2021:70, § 61; 26/06/2019, T-117/18, 200 PANORAMICZNYCH, EU:T:2019:447, § 45.

<sup>(15)</sup> 05/12/2000, T-32/00, Electronica, EU:T:2000:283, § 43; 23/09/2015, T-633/13, Infosecurity, EU:T:2015:674, § 51.

<sup>(16)</sup> 06/02/2013, T-412/11, TRANSCENDENTAL MEDITATION, EU:T:2013:62, § 85, 87; 07/11/2014, T-567/12, KAATSU, EU:T:2014:937, § 39; 10/02/2021, T-153/20, Lightyoga, EU:T:2021:70, § 68.

<sup>(17)</sup> 18/10/2016, T-56/15, Brauwelt, EU:T:2016:618, § 67, 69; 17/09/2008, T-226/07, PRANAHAUS, EU:T:2008:381, § 35 (appealed and confirmed).

<sup>(18)</sup> 18/10/2016, T-56/15, Brauwelt, EU:T:2016:618, § 72.

<sup>(19)</sup> 07/11/2014, T-567/12 KAATSU, EU:T:2014:937; 18/10/2016, T-56/15 Brauwelt, EU:T:2016:618.

<sup>(20)</sup> 06/02/2013, T-412/11, TRANSCENDENTAL MEDITATION, EU:T:2013:62; 07/11/2014, T-567/12 KAATSU, EU:T:2014:937; 23/09/2015, T-633/13 Infosecurity, EU:T:2015:674; 18/10/2016, T-56/15 Brauwelt, EU:T:2016:618.

<sup>(21)</sup> 14/03/2011, C-369/10 P, Memory, EU:C:2011:148.

<sup>(22)</sup> 05/12/2000, T-32/00, Electronica, EU:T:2000:283; 18/10/2016, T-56/15 Brauwelt, EU:T:2016:618.

<sup>(23)</sup> 06/02/2013, T-412/11, TRANSCENDENTAL MEDITATION, EU:T:2013:62; 07/11/2014, T-567/12 KAATSU, EU:T:2014:937; 23/09/2015, T-633/13 Infosecurity, EU:T:2015:674; 17/10/2017, T-704/16 Scatter slots, EU:T:2017:728.

<sup>(24)</sup> [CP15 Common Practice](#).

- When goods are at issue: **whether one of their inherent features, qualities or characteristics is that they are able to contain a specific subject matter in any form**. This will be the case, for example, for goods that can physically store information (e.g. books, magazines, instructional and teaching materials, games), or digital goods, which can store information electronically (e.g. software, data carriers, e-books, electronic publications), as they are inherently designed to contain information, ideas, or artistic expression.
- When services are at issue: **whether the field or category of activity provided to third parties is able to provide or create specific subject matter**. This will be the case, for example, for educational or tutoring services, or services such as writing and publishing, which by nature, are capable of providing or creating subject matter in several forms.

Therefore, this Common Practice applies to **any goods and/or services that serve to create, store or process specific thematic content, as they are, by nature, suitable for containing or relating to subject matter**.

Thus, **a case-by-case assessment of the goods and/or services** for which protection is sought **will always be necessary**.

## 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection

To assess the descriptiveness of signs that may serve, in trade, to designate the subject matter of the goods and/or services for which protection is sought, it will have to be determined whether the meaning identified in the sign can be perceived as an indication of the subject matter of the goods and/or services, and therefore, as one of their inherent characteristic(s) within the meaning of Article 4(1)(c) TMD.

The term ‘**characteristic**’ in Article 4(1)(c) TMD, as explained by the CJ in the cases ‘Memory’ and ‘1000’<sup>(25)</sup>, **serves to designate a property**, easily recognisable by the relevant class of persons, **of the goods and/or services for which protection is sought**. It is irrelevant whether the characteristic of the goods and/or services at issue is commercially essential or merely ancillary, or whether there are synonyms of those characteristics<sup>(26)</sup>.

To perform such an assessment, the following aspects will have to be analysed and established:

- **Relevant public**: Who is the **relevant public** of the goods and/or services at issue?
- **Meaning of the sign**: Does the sign applied for have a **meaning** for the relevant public?
- **The goods and/or services at issue**: Are the goods or services at issue **inherently able to contain or relate to subject matter**?
- **Existence of a direct link**: Will at least one of the potential meaning(s) identified in the sign be immediately **perceived/understood** by the relevant public **as a direct reference to the specific subject matter of the goods or services** at issue? Is there, therefore, a **direct and immediate relationship** between the meaning of the sign and the subject matter of the goods and/or services for which protection is sought?

The analysis of the aforementioned aspects constitutes a **general methodology** for the assessment of signs that may describe the subject matter of the goods and/or services for which protection is sought. It shall provide general guidance on how to assess cases related to ‘subject matter’. The important matter will be to establish,

<sup>(25)</sup> 14/03/2011, C-369/10 P, Memory, EU:C:2011:148, § 53; 10/03/2011, C-51/10 P, 1000, EU:C:2011:139, § 50.

<sup>(26)</sup> 12/02/2004, C-363/99, Postkantoor, EU:C:2004:86, § 102; 24/04/2012, T-328/11, EcoPerfect, EU:T:2012:197, § 41; 06/12/2023, T-764/22, Bet365 (fig.), EU:T:2023:783, § 69.



as a final step in the assessment, whether, from the perspective of the relevant public, a direct link can be established between the meaning of the sign and the subject matter that the goods and/or services at issue relate to.

### Relevant public

It is necessary to establish who **the relevant public of the goods and/or services at issue is**. According to settled case-law <sup>(27)</sup>, the relevant public is considered to be **reasonably well-informed and reasonably observant and circumspect**. Moreover, depending on the nature of the goods and/or services at issue, the relevant public may be identified as the general public and/or professionals (i.e. specialist public).

### Meaning of the sign

It will need to be assessed whether, from the perspective of the identified relevant public, the sign has a **meaning**. In this regard, any potential meaning identified can be corroborated by, inter alia, reliable dictionary entries, encyclopaedias, or examples of use of the term(s) (included in the sign) found on internet websites.

### The goods and/or services at issue

When performing the assessment, and as explained in subsection 2.1.2, it will also have to be analysed whether the goods or services at issue are inherently able to contain or relate to subject matter in any form.

### Existence of a direct link

Once all the above aspects are identified, the last thing to be assessed will be whether, from the perspective of the identified relevant public, there is a **direct and immediate relationship** between the meaning of the sign and the specific subject matter that the goods or services relate to. As mentioned below, this assessment might also include the analysis of the market practice of the sector involved.

To perform the assessment of the existence of a direct link, all previous aspects will have to be analysed in conjunction with one another. This means that the analysis of the meaning identified in the sign, should be performed **in the context of the goods and/or services and by taking into consideration the relevant public's perception** of the sign <sup>(28)</sup>, which may be influenced by specific aspects, such as the **market reality** of the goods and/or services in question.

As part of the assessment, it will have to be determined whether, in the context of the relevant goods and/or services, **at least one of the possible meanings of the sign could be immediately understood by the relevant public such that it is reasonable to believe that it will be recognised as describing the specific subject matter of the goods and/or services for which protection is sought**.

This may be the case when one of the possible meanings of the sign either:

- **Provides commercially relevant information** <sup>(29)</sup> **on what may be the main topic, genre, category, or any other subject matter of the goods at issue**. For instance, the sign 'PLANETS' for *books* in Class 16 could be perceived by the relevant public, without further thought, as providing information on the main subject matter that is addressed or dealt with by the books. This is because consumers are accustomed to, or could reasonably expect, encountering books on the market whose subject matter focuses only on planets. Thus, the term refers to a subject matter that is commercially relevant for books;

<sup>(27)</sup> 12/06/2007, T-339/05, LOKTHREAD, EU:T:2007:172, § 34.

<sup>(28)</sup> 12/02/2004, C-363/99, Postkantoor, EU:C:2004:86, § 34; 21/01/2010, C-398/08 P, Vorsprung durch Technik, EU:C:2010:29, § 34; 17/03/2021, T-226/20, Mobileheat, EU:T:2021:148, § 34.

<sup>(29)</sup> **Note:** The concept of '**commercially relevant**' in the context of this Common Practice **refers to specific market realities**. It does not constitute an indication of how significant a characteristic may be in the sense of '*commercially essential*' or '*merely ancillary*' as used in Postkantoor, C-363/99, § 102, 12/02/2004, EU:C:2004:86.

or

- **Provides commercially relevant information about what may be the main subject matter that the services at issue relate to.** For example, the sign 'YOGA' for *educational services* in Class 41 could be perceived by the relevant public, without further thought, as providing information about what the subject matter of the educational services is. This is because consumers are accustomed to, or could reasonably expect, encountering undertakings providing educational services whose subject matter is specifically related to yoga on the market. Thus, the term refers to a subject matter that is commercially relevant for educational services.

A direct and immediate relationship between the sign and the specific subject matter of the goods and/or the services may be more likely when the sign consists of a term that is commonly used on the market in connection with a specific category of goods and/or services, and the goods and/or services in question, fall within that specific category. In such cases, this is an indication that this information is commercially relevant. The relevant public could, therefore, reasonably, and without further thought, understand the sign as providing information on the specific subject matter of the goods or the services.

For example, the term 'CATS' could be considered as being commonly used in commerce in connection with *books* in Class 16. It is a topic for which there is an interest from the public and for which a substantial number of books are available. Therefore, the term is commercially relevant when used in relation to books and, a sign consisting of the term 'CATS' will be perceived by the general public as directly describing the subject matter of the books.

In this regard, **if the relevant public is accustomed to or can reasonably expect to find goods and/or services on the market that contain or relate to the subject matter identified within the meaning** of the sign, it will be more likely that a direct and immediate relationship between the sign and the goods and/or services for which protection is sought can be established.

By definition, the subject matter of the goods or services at hand (and which is described by the sign itself) is something that is capable of **influencing the public's decision to purchase, acquire or consult the goods and/or services at issue** instead of those from other undertakings <sup>(30)</sup>.

For instance, the term 'NIGHTS' refers to 'the part of each day when the sun has set, and it is dark outside' <sup>(31)</sup>. Even if 'NIGHTS' could be perceived as subject matter; when applied as a trade mark for *books* in Class 16, it would not be perceived by the relevant public as directly describing the subject matter of the books. It is a topic on which there is not a substantial number of books available on the market, nor would there seem to be a sufficient interest in the topic on the part of the relevant public. Consumers are not accustomed to encountering books specifically dedicated to the topic of 'nights' on the market, nor will they expect to do so. Therefore, the term 'NIGHTS' is not commercially relevant when used in relation to books. 'NIGHTS' does not immediately provide information on what the content of the book will be, and the relevant public would not be inclined to base its choice of acquiring or consulting the book on the fact that the sign describes a specific subject matter. Consequently, 'NIGHTS' cannot be considered an inherent characteristic of a book, within the meaning of Article 4(1)(c) TMD.

If, after analysing all the aforementioned aspects, **it can be established that the relevant public will immediately and without further thought perceive the sign as providing commercially relevant**

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<sup>(30)</sup> See by analogy: 23/09/2015, T-633/13, Infosecurity, EU:T:2015:674, § 54.

<sup>(31)</sup> *Collins Dictionary* (2023) Available from: <https://www.collinsdictionary.com/dictionary/english/night> [Accessed 10 February 2025].

information about the subject matter of the goods and/or services, it will be possible to conclude that it constitutes an inherent characteristic within the meaning of Article 4(1)(c) TMD, and the sign will be refused registration on this basis.

However, as set out above, the fact that there is no direct link between the sign and the subject matter of the goods and/or services does not automatically render the sign acceptable. It may, however, still be objectionable for other reasons outside the scope of this Common Practice. The scope of this Common Practice is limited to the assessment of descriptiveness, namely where the sign describes the subject matter of the goods and/or services.

### 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

The purpose of this section is to present examples of signs that are considered descriptive because they serve, in trade, to designate the subject matter of the goods and/or services for which protection is sought, as well as examples of signs that are not considered descriptive of the subject matter of the relevant goods and/or services.

The examples included below aim to provide guidance on how to apply the aforementioned general methodology and facilitate the assessment of the descriptiveness of signs based on their subject matter <sup>(32)</sup>. Additional clarifications are provided for *advertising services* in Class 35 and services in Class 38.

Nevertheless, this section does not analyse whether a sign in an example may also be considered descriptive of other characteristic(s) of the goods and/or services (e.g. kind, quality, or purpose). Moreover, the fact that the examples below are considered descriptive of the subject matter of the goods and/or services does not exclude the possibility of a sign also being descriptive of other characteristic(s). In addition, the fact that certain examples below are considered not to be descriptive of the subject matter of the goods and/or services does not imply that the sign is registrable, as other grounds for refusal may nevertheless apply.

Finally, although certain terms in the examples may be recognised in several languages, it is assumed that they are in English and will be **understood as a native English speaker would understand them**.

The goods and services used in the examples are only indicative of possible goods and services where signs might be considered descriptive of the subject matter. Other goods or services, or even possibly classes, not mentioned in the examples could also be relevant in a refusal of a sign based on subject matter, provided that the nature of the goods and/or services in question allows them to contain or relate to a specific subject matter.

#### 2.3.1 Examples of signs applied for goods in Class 9

Considered descriptive of the subject matter of the goods at issue			
Sign	ROCK MUSIC	Goods	Class 9: DVDs, CDs
Reasoning	<p><b>Relevant public:</b> The goods at issue target both the general public and professional consumers.</p> <p><b>Meaning of the sign:</b> The term '<b>ROCK MUSIC</b>' will be understood by the relevant public as referring to 'any of various styles of pop music having a heavy beat, derived from rock and roll' <sup>(33)</sup>.</p>		

<sup>(32)</sup> For more information about the general methodology, see subsection 2.2 of this document.

<sup>(33)</sup> *Collins Dictionary* (2023) Available from <https://www.collinsdictionary.com/dictionary/english/rock-music> [Accessed 10 February 2025].

	<p><b>The goods at issue:</b> The goods at issue are physical media which are designed to store and deliver subject matter, such as music and video recordings. By their nature, these goods are able to contain subject matter.</p> <p><b>Direct relationship between the meaning of the sign and the subject matter of the goods:</b> These goods are commonly found in music stores or other specialised stores, where sections are usually organised by music genre, one of which is '<b>ROCK MUSIC</b>'. Therefore, the term '<b>ROCK MUSIC</b>' is commercially relevant in relation to those goods. As a result, the relevant public, when confronted with the sign '<b>ROCK MUSIC</b>' affixed to a DVD or a CD, will immediately perceive it as a description of their subject matter. Thus, in this case, '<b>ROCK MUSIC</b>' is considered an inherent characteristic of the goods at issue.</p> <p><b>Conclusion:</b> The sign '<b>ROCK MUSIC</b>' will not be seen as an indication of commercial origin but rather as a description of a characteristic of the goods (i.e. the specific music genre which is the subject matter contained in them).</p>		
<b>Sign</b>	<b>PICTURES</b>	<b>Goods</b>	Class 9: Databases
<b>Reasoning</b>	<p><b>Relevant public:</b> The goods at issue target both professionals and the general public.</p> <p><b>Meaning of the sign:</b> The term '<b>PICTURES</b>' is the plural form of picture and will be understood by the relevant public as referring to a representation consisting of lines and shapes which are drawn, painted, or printed on a surface and show a person, thing, or scene <sup>(34)</sup>.</p> <p><b>The goods at issue:</b> The goods at issue are databases which consist of structured collections of data that are systematically organised and accessible for various purposes. Databases store, manage, and retrieve information, often according to their specific subject matter. They can contain various types of data, such as text, numerical information, multimedia, or images. By their nature, these goods are able to contain subject matter.</p> <p><b>Direct relationship between meaning of the sign and the subject matter of the goods:</b> Databases are usually designed and marketed based on their subject matter, purpose, and/or functionalities. When a consumer intends to use or acquire a database, they pay special attention to the specific type of content it stores. Therefore, it is reasonable to think that consumers could be interested in such databases based on their content and that therefore some companies could dedicate their activity to these kinds of goods. As a result, the term '<b>PICTURES</b>' is commercially relevant in relation to databases, and when confronted with the sign '<b>PICTURES</b>' affixed to a database, the relevant public will immediately perceive it as a description of their subject matter. Thus, '<b>PICTURES</b>' is considered an inherent characteristic of the goods at issue.</p> <p><b>Conclusion:</b> The sign '<b>PICTURES</b>' will not be seen as an indication of commercial origin, but rather as a description of a characteristic of the goods (i.e. the particular subject matter for which the database has been designed).</p>		
<b>Sign</b>	<b>MEDICINE</b>	<b>Goods</b>	Class 9: Downloadable electronic books
<b>Reasoning</b>	<p><b>Relevant public:</b> The goods at issue target both the general public and professional consumers.</p> <p><b>Meaning of the sign:</b> The term '<b>MEDICINE</b>' will be understood by the relevant public as referring to 'the treatment of illness and injuries by doctors and nurses; or as a substance that you drink or swallow in order to cure an illness' <sup>(35)</sup>.</p>		

<sup>(34)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/picture> [Accessed 10 February 2025].

<sup>(35)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/medicine> [Accessed 22 May 2025].

	<p><b>The goods at issue:</b> The goods at issue are digital publications designed to store and present information electronically, whether in textual, visual or multimedia formats. By their nature, these goods are able to contain subject matter.</p> <p><b>Direct relationship between the meaning of the sign and the subject matter of the goods:</b> The goods at issue are commonly found in online bookstores or digital platforms, where electronic books are typically organised by subject or genre, one of which is medicine. Therefore, the term '<b>MEDICINE</b>' is commercially relevant in relation to the goods. As a result, the relevant public, when confronted with the sign '<b>MEDICINE</b>' affixed to downloadable electronic books, will immediately perceive it as describing their subject matter (i.e. medicine). Thus, in this case, '<b>MEDICINE</b>' is considered an inherent characteristic of the goods at issue.</p> <p><b>Conclusion:</b> The sign '<b>MEDICINE</b>' will not be seen as an indication of commercial origin but rather as a description of a characteristic of the goods (i.e. their specific subject matter).</p>		
<b>Sign</b>	<b>WINE</b>	<b>Goods</b>	Class 9: Downloadable mobile applications
<b>Reasoning</b>	<p><b>Relevant public:</b> The goods at issue target both the general public and professional consumers.</p> <p><b>Meaning of the sign:</b> The term '<b>WINE</b>' will be understood by the relevant public as referring to 'an alcoholic drink which is made from grapes' <sup>(36)</sup>.</p> <p><b>The goods at issue:</b> The goods at issue are software applications developed for use on smartphones or tablets. These applications may be created to contain specific subject matter. By their nature, these goods are able to contain subject matter.</p> <p><b>Direct relationship between the meaning of the sign and the subject matter of the goods:</b> The goods at issue are distributed via digital platforms such as app stores, where they are broadly categorised by function or general themes, such as 'Food &amp; Drink' or 'Lifestyle'. Within these categories, users often rely on keyword searches to locate apps related to specific topics, such as wine. Therefore, the term '<b>WINE</b>' is commercially relevant in relation to the goods. As a result, the relevant public, when confronted with the sign '<b>WINE</b>' affixed to a mobile application, will immediately perceive it as a description of the app's subject matter (i.e. an app that provides information about different types of wine, wine pairings, or wine reviews). Thus, in this case, '<b>WINE</b>' is considered an inherent characteristic of the goods at issue.</p> <p><b>Conclusion:</b> The sign '<b>WINE</b>' will not be seen as an indication of commercial origin but rather as a description of a characteristic of the goods (i.e. the specific subject matter of the mobile application).</p>		
<b>Sign</b>	<b>ANCIENT HISTORY</b>	<b>Goods</b>	Class 9: Software
<b>Reasoning</b>	<p><b>Relevant public:</b> The goods at issue target both professionals and the general public.</p> <p><b>Meaning of the sign:</b> The term '<b>ANCIENT HISTORY</b>' will be understood by the relevant public as referring to 'history of ancient civilisations, especially Greece and Rome' <sup>(37)</sup>.</p> <p><b>The goods at issue:</b> The goods at issue are software developed for use on various devices, including smartphones, tablets, or computers. They may be designed to contain specific subject matter, and can offer, for example, educational content, historical timelines, interactive features, or access to archival materials. By their nature, such goods are capable of containing subject matter.</p>		

<sup>(36)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/wine> [Accessed 22 May 2025].

<sup>(37)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/ancient-history> [Accessed 22 May 2025].



	<p><b>Direct relationship between the meaning of the sign and the subject matter of the goods:</b> Software is commonly categorised based on its function or area of application, such as education, entertainment, productivity or lifestyle. Within these categories, software may focus on specific themes or topics. For example, educational software may be developed around subjects like ancient history, offering relevant content such as timelines, interactive experiences, or access to historical archives. In this context, users often look for software that addresses particular topics or areas of interest. Therefore, the term '<b>ANCIENT HISTORY</b>' is commercially relevant in relation to those goods. As a result, the relevant public, when confronted with the sign '<b>ANCIENT HISTORY</b>' affixed to software, will immediately perceive it as a description of the software's subject matter. Thus, in this case, '<b>ANCIENT HISTORY</b>' is considered an inherent characteristic of the goods at issue.</p> <p><b>Conclusion:</b> The sign '<b>ANCIENT HISTORY</b>' will not be seen as an indication of commercial origin but rather as a description of a characteristic of the goods (i.e. its subject matter).</p>
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Considered not descriptive of the subject matter of the goods at issue			
Sign	MEDICINE	Goods	Class 9: Antivirus software
Reasoning	<p><b>Relevant public:</b> The goods at issue target both the general public and professional consumers.</p> <p><b>Meaning of the sign:</b> The term '<b>MEDICINE</b>' will be understood by the relevant public as referring to 'the treatment of illness and injuries by doctors and nurses; or as a substance that you drink or swallow in order to cure an illness' <sup>(38)</sup>.</p> <p><b>The goods at issue:</b> The goods at issue are technical in nature, with an inherent function that is purely utility-based. Antivirus software is to protect computer systems and data by detecting, preventing, and responding to security threats such as unauthorised access, malware attacks, or data breaches. Its operation relies on complex technical processes like scanning, pattern recognition, and threat analysis, which are integral to maintaining system integrity and security. Its primary function is protective and operational, not thematic. Thus, by nature, they are not capable of containing subject matter.</p> <p><b>Direct relationship between meaning of the sign and the subject matter of the goods:</b> Considering the nature of the goods, the relevant public, when confronted with the sign '<b>MEDICINE</b>' affixed to antivirus software, will not perceive it as a description of their subject matter.</p>		
Sign	WINE	Goods	Class 9: Cybersecurity software
Reasoning	<p><b>Relevant public:</b> The goods at issue target both the general public and professional consumers.</p> <p><b>Meaning of the sign:</b> The term '<b>WINE</b>' will be understood by the relevant public as referring to 'an alcoholic drink which is made from grapes' <sup>(39)</sup>.</p> <p><b>The goods at issue:</b> The goods at issue are technical in nature, with an inherent function that is purely utility-based. Cybersecurity software is specifically designed to protect computer systems, networks, and data by detecting, preventing, and responding to security threats such as unauthorised access, cyberattacks, malware infections, or data breaches. Its operation relies on sophisticated technical processes such as real-time monitoring, threat analysis, and encryption, which are essential for maintaining system security and integrity. Its primary function is protective and operational, not thematic. Thus, by nature, they are not capable of containing subject matter.</p> <p><b>Direct relationship between meaning of the sign and the subject matter of the goods:</b> Considering</p>		

<sup>(38)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/medicine> [Accessed 22 May 2025].

<sup>(39)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/wine> [Accessed 22 May 2025].



the nature of the goods, the relevant public, when confronted with the sign **'WINE'** affixed to cybersecurity software, will not perceive it as a description of their subject matter.

### 2.3.2 Examples of signs applied for goods in Class 16

Considered descriptive of the subject matter of the goods at issue			
Sign	CROSSWORDS	Goods	Class 16: Magazines
Reasoning	<p><b>Relevant public:</b> The goods at issue target the general public.</p> <p><b>Meaning of the sign:</b> The term <b>'CROSSWORDS'</b> is the plural form of <b>'CROSSWORD'</b> and will be understood by the relevant public as referring to 'a word game in which you work out the answers and write them in the white squares of a pattern of small black and white squares' <sup>(40)</sup>.</p> <p><b>The goods at issue:</b> The goods at issue are publications with a paper cover which are issued regularly – usually every week or month – and contain articles, crosswords, stories, photographs or advertisements. By their nature, these goods are capable of containing subject matter.</p> <p><b>Direct relationship between meaning of the sign and the subject matter of the goods:</b> Consumers are in the habit of finding magazines on the market whose subject matter is exclusively related to crosswords. Therefore, the term <b>'CROSSWORDS'</b> is commercially relevant in relation to the goods. As a result, the relevant public when confronted with the sign <b>'CROSSWORDS'</b> affixed to a magazine, will immediately perceive it as a description of the magazine's subject matter (i.e. crosswords). Thus, in this case, <b>'CROSSWORDS'</b> is considered an inherent characteristic of the goods at issue.</p> <p><b>Conclusion:</b> The sign <b>'CROSSWORDS'</b> will not be seen as an indication of commercial origin but rather as a description of a characteristic of the goods (i.e. a specific type of word game which is the subject matter of the magazines).</p>		
Sign	YOGA	Goods	Class 16: Instructional and teaching materials
Reasoning	<p><b>Relevant public:</b> The goods at issue target both the general public and professionals in the educational sector.</p> <p><b>Meaning of the sign:</b> The term <b>'YOGA'</b> will be understood by the relevant public as 'a type of exercise in which you move your body into various positions in order to become more fit or flexible, to improve your breathing, and to relax your mind' <sup>(41)</sup>.</p> <p><b>The goods at issue:</b> The goods at issue could be, for example, leaflets, books or other kinds of printed matter that provide information related to various fields of study or areas of interest. By their nature, these goods are capable of containing subject matter.</p> <p><b>Direct relationship between meaning of the sign and the subject matter of the goods:</b> Instructional and teaching materials can be categorised based on their educational purpose or area of focus, such as language learning, physical education, wellness, or professional training. Within these categories, such materials often focus on specific topics or disciplines, and the relevant public will choose to consult or acquire these goods because of their subject matter. Therefore, the term <b>'YOGA'</b> is commercially relevant in relation to the goods. As a result, the sign <b>'YOGA'</b>, when placed in connection with the goods, will immediately be perceived by the relevant public as a description of the subject matter of the goods (i.e. instructional and teaching materials about yoga). Thus, in this case, <b>'YOGA'</b> is considered</p>		

<sup>(40)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/crossword> [Accessed 22 May 2025].

<sup>(41)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/yoga> [Accessed 10 February 2025].

	<p>an inherent characteristic of the goods at issue.</p> <p><b>Conclusion:</b> The sign <b>'YOGA'</b> will not be seen as an indication of commercial origin, but rather as a description of a characteristic of the goods (i.e. their subject matter).</p>
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Considered not descriptive of the subject matter of the goods at issue			
Sign	BIT	Goods	Class 16: Computer magazines
Reasoning	<p><b>Relevant public:</b> The goods at issue target both the general public and professional consumers.</p> <p><b>Meaning of the sign:</b> The term <b>'BIT'</b> will in relation to computers, be understood by the relevant public as referring to 'the smallest unit of information that is held in a computer's memory (either a 0 or 1)' <sup>(42)</sup>.</p> <p><b>The goods at issue:</b> The goods are computer magazines, which are periodical publications focused on a wide range of computing-related topics, such as hardware and software reviews, industry news, programming tutorials, consumer electronics, and IT trends. By their nature, these goods are capable of containing subject matter.</p> <p><b>Direct relationship between meaning of the sign and the subject matter of the goods:</b> While the term <b>'BIT'</b> is a technical term associated with computing, it represents a highly specific and abstract concept that does not provide information about the main subject matter of computer magazines. The term <b>'BIT'</b> does not correspond to a commercially relevant category of computer magazines and does not immediately provide information about the content of the goods. Consequently, when consumers are confronted with the sign <b>'BIT'</b> affixed to computer magazines, they will not perceive it as a description of the subject matter of the goods.</p>		

### 2.3.3 Examples of signs applied for goods in Class 28

Considered descriptive of the subject matter of the goods at issue			
Sign	FILM STARS	Goods	Class 28: Quiz games
Reasoning	<p><b>Relevant public:</b> The goods at issue are aimed at the general public.</p> <p><b>Meaning of the sign:</b> The term <b>'FILM STARS'</b> will be understood by the relevant public as referring to 'famous actors and/or actresses who appear in films' <sup>(43)</sup>.</p> <p><b>The goods at issue:</b> The goods at issue are quiz games, which typically involve answering questions, solving puzzles, or testing knowledge on specific subjects. By nature, these goods can contain subject matter.</p> <p><b>Direct relationship between meaning of the sign and the subject matter of the goods:</b> In general, when a consumer intends to buy a quiz game, they pay special attention to its subject matter. Therefore, the term <b>'FILM STARS'</b> is commercially relevant in relation to the goods. As a result, the relevant public, when confronted with the sign <b>'FILM STARS'</b> affixed to a quiz game, will immediately perceive it as a description of its subject matter (i.e. that the quiz game is focused on questions related to famous actors and actresses). Thus, in this case, <b>'FILM STARS'</b> is considered an inherent characteristic of the goods at issue.</p> <p><b>Conclusion:</b> The sign <b>'FILM STARS'</b> will not be seen as an indication of commercial origin but rather</p>		

<sup>(42)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/bit> [Accessed 22 May 2025].

<sup>(43)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/film-star> [Accessed 10 February 2025].

as a description of a characteristic of the goods (i.e. the specific subject matter of the quiz game).

### Considered not descriptive of the subject matter of the goods at issue

Sign	ANGRY PLUMBERS	Goods	Class 28: Board games
Reasoning	<p><b>Relevant public:</b> The goods at issue target the general public.</p> <p><b>Meaning of the sign:</b> The term '<b>ANGRY</b>' means 'feeling or expressing annoyance, animosity, or resentment; enraged' <sup>(44)</sup>. The term '<b>PLUMBERS</b>' is the plural form of plumber and refers to 'a person whose job is to connect and repair things such as water and drainage pipes, baths, and toilets' <sup>(45)</sup>. As a whole, '<b>ANGRY PLUMBERS</b>' will be perceived by the relevant public as referring to a group of plumbers who are enraged or acting with frustration.</p> <p><b>The goods at issue:</b> The goods are board games, which are recreational products involving structured play. These games can vary widely in theme and format, including strategy-based games, role-playing games, educational games, or games based on fantasy, professions, or daily life. By their nature, these goods can contain subject matter.</p> <p><b>Direct relationship between meaning of the sign and the subject matter of the goods:</b> While board games may feature plumbers as characters or elements within a storyline or pack of cards, and consumers may be accustomed to encountering board games inspired by professions, the term '<b>ANGRY PLUMBERS</b>' does not correspond to a commercially relevant category of board games, and does not immediately provide information on what the content of the board game would be. Consequently, when consumers are confronted with the sign '<b>ANGRY PLUMBERS</b>' affixed to a board game, they will not perceive it as a description of the game's subject matter.</p>		

#### 2.3.4 Examples of signs applied for services in Class 35

##### a) The specific case of advertising services <sup>(46)</sup>

When analysing whether a sign may be descriptive of the subject matter of *advertising services* in Class 35, and according to the aspects mentioned in section 2.2, the first step will be to determine who the relevant public of said services is.

The Nice Classification <sup>(47)</sup> includes '*advertising*' as a general indication of the Class 35 heading, i.e. '*advertising; business management; business administration; office functions*'.

In addition, according to case-law, *advertising services* must be construed as the advertising of a good or a service for the benefit of others and not the advertising of one's own goods or services to one's own benefit <sup>(48)</sup>. Therefore, these services are generally **not aimed at the general public**, as they are meant for advertising a good or another service and no consumer would have a need for advertising services <sup>(49)</sup>. Instead, **they are B2B services which are aimed at companies or entrepreneurs (i.e. the professional public) who want to advertise their goods and/or services on the market**. In general, advertising services are provided by

<sup>(44)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/angry> [Accessed 2 July 2025].

<sup>(45)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/plumber> [Accessed 22 May 2025].

<sup>(46)</sup> For additional information on the specific case of *advertising services* in Class 35, please read the [BoA Case-Law Research Report](#) on this matter.

<sup>(47)</sup> The International Classification of goods and services for the purposes of the registration of marks. See the [2025 Version of 12<sup>th</sup> Edition, in force as from 1 January 2025](#).

<sup>(48)</sup> 07/12/2022, T-747/21, Fohlenelf, EU:T:2022:773, § 91.

<sup>(49)</sup> 13/03/2018, T-824/16, K (fig.) / K (fig.) et al., EU:T:2018:133, § 36, 39.

advertising or communication agencies <sup>(50)</sup>, which usually design advertising material, produce commercials, and create tailored strategies to promote/advertise clients' goods, services, events, etc. through various media (e.g. radio, television, internet, publicity texts or advertising films).

After analysing **whether the sign applied for has a meaning, from the perspective of the relevant public**, it will be necessary to establish **what the subject matter of advertising services may be**, and whether such subject matter can be considered as one of their inherent characteristics.

The GC, in the PETCO judgment <sup>(51)</sup>, stated that the purpose of the advertising services is to help third parties to sell **goods and services by promoting their launch or sale**. It also mentioned that **these services have the purpose of reinforcing the client's position on the market to enable them to acquire a competitive advantage through publicity**.

Case-law also mentions that *advertising services are services which can be inherently linked to the specific good and/or service being promoted/advertised, or to the market sector or field of activity or business of said good or service* <sup>(52)</sup>. This is because their focus is the creation and dissemination of subject matter in the form of a promotional message, which is tailored bearing in mind the particular good and/or service, or the field/area of activity or business that will be advertised/promoted.

Based on the above, the subject matter of advertising services can be:

- a) the **specific good and/or service** or
- b) the **specific market sector, field of activity or business**

that will be advertised/promoted.

Nevertheless, to consider the specific good and/or service, or the market sector, field of activity or business that is being advertised/promoted as a characteristic under Article 4(1)(c) TMD, there must be a particular branch of advertising established on the market that can be differentiated from the advertising services of other goods and/or services. This distinction could depend on whether specialised advertising agencies or branches thereof already exist within a specific field/area, or whether it is reasonable to assume that such specialisation could exist. Market realities, however, may vary across different Member States, and therefore, a case-by-case assessment will always be needed.

Finally, it is to be assessed whether, from the perspective of the relevant public, there is a direct and immediate relationship between the meaning identified in the sign and the concrete subject matter of the advertising services.

This may be the case **when the relevant public will immediately perceive, without further thought, that at least one of the meanings of the sign is providing commercially relevant information about the subject matter of the advertising services** (i.e. about the specific good and/or service; or the market sector, field of activity or business that will be advertised).

**Attention:** *The examples considered descriptive of the subject matter of advertising services below are based on the assumption that a specialised advertising agency can exist for the referenced market sector. Since the definition of concrete market sectors is out of scope of this Common Practice, the examples below do not*

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<sup>(50)</sup> 07/12/2022, T-747/21, Fohlenelf, EU:T:2022:773, § 91; 21/10/2015, T-664/13, PETCO / PETCO, EU:T:2015:791, § 50; 08/12/2021, R 1674/2020-2, simbuya gin (fig.) / SIBUYA (fig.), § 52.

<sup>(51)</sup> 21/10/2015, T-664/13, PETCO / PETCO, EU:T:2015:791, § 50.

<sup>(52)</sup> 08/05/2019, T-56/18, WEIN FÜR PROFIS (fig.), EU:T:2019:312, § 67; 14/07/2017, T-194/16, CLASSIC FINE FOODS (fig.), EU:T:2017:498, § 29; 18/01/2023, R 1720/2022-1, WORLD EV DAY, § 17.

confirm a common approach in this regard.

Considered descriptive of the subject matter of the services at issue			
Sign	FASHION	Services	Class 35: Advertising services
Reasoning	<p><b>Relevant public:</b> The services at issue are aimed at companies or entrepreneurs (i.e. a professional public).</p> <p><b>Meaning of the sign:</b> The term '<b>FASHION</b>' will be understood by the relevant public as referring to 'the area of activity that involves styles of clothing and appearance; or as a style of clothing or a way of behaving that is popular at a particular time' <sup>(53)</sup>.</p> <p><b>The services at issue:</b> The services at issue involve the creation and dissemination of advertising materials, commercials, etc. to promote clients' products, services, events, etc. through various media. These materials are usually customised depending on the particular good and/or market sector to be advertised or promoted. By their nature, these services can relate to a specific subject matter.</p> <p><b>Direct relationship between the meaning of the sign and the subject matter of the services:</b> When the relevant public is confronted with the sign '<b>FASHION</b>' in connection with these services, it will immediately perceive it as providing information about the market sector being advertised, that is, about the subject matter of the advertising services. This is because specialised advertising agencies dedicated to the fashion industry can exist in the market. These agencies tailor their services specifically to the fashion sector and differentiate fashion-related advertising from the promotion of other goods and/or services. As a result, the term '<b>FASHION</b>' is commercially relevant in relation to the services. Thus, in this case, '<b>FASHION</b>' is considered an inherent characteristic of the services (i.e. the subject matter of the advertising services).</p> <p><b>Conclusion:</b> The sign '<b>FASHION</b>' will not be seen as an indication of commercial origin, but rather as a description of a characteristic of the services (i.e. the specific subject matter around which the advertising services will be provided).</p>		
Sign	FOOD & WINE	Services	Class 35: Advertising services
Reasoning	<p><b>The relevant public:</b> The services at issue are aimed at a specialist public (i.e. professionals).</p> <p><b>Meaning of the sign:</b> The term '<b>FOOD</b>' refers to 'any substance containing nutrients, such as carbohydrates, proteins, and fats, that can be ingested and metabolised into energy and body tissue' <sup>(54)</sup>. The term '<b>WINE</b>' refers to 'an alcoholic drink which is made from grapes' <sup>(55)</sup>. As a whole, the sign '<b>FOOD &amp; WINE</b>' will be understood by the relevant public as referring to edible substances and alcoholic beverages made from grapes.</p> <p><b>The services at issue:</b> The services at issue involve the creation and dissemination of advertising materials, commercials, etc. to promote clients' products, services, events, etc. through various media. These materials are usually customised depending on the particular good and/or market sector to be advertised or promoted. By their nature, these services can relate to a specific subject matter.</p> <p><b>Direct relationship between the meaning of the sign and the subject matter of the services:</b> When the relevant public is confronted with the sign '<b>FOOD &amp; WINE</b>' in connection with these services, it will immediately perceive it as providing information about the market sector being advertised, that is, about</p>		

<sup>(53)</sup> Collins Dictionary (2023) Available from: <https://www.collinsdictionary.com/es/diccionario/english/fashion> [Accessed 10 February 2025].

<sup>(54)</sup> Collins Dictionary (2023) Available from: <https://www.collinsdictionary.com/dictionary/english/food> [Accessed 10 February 2025].

<sup>(55)</sup> Collins Dictionary (2023) Available from: <https://www.collinsdictionary.com/dictionary/english/wine> [Accessed 22 May 2025].



	<p>the subject matter of the advertising services. This is because advertising agencies dedicated to the food and wine industries can exist in the market. These agencies tailor their services specifically to the food and wine sector and differentiate food and wine-related advertising from the promotion of other goods and/or services. As a result, the term '<b>FOOD &amp; WINE</b>' is commercially relevant in relation to the services. Thus '<b>FOOD &amp; WINE</b>' is considered an inherent characteristic of the services at issue (i.e. the subject matter of the advertising services).</p> <p><b>Conclusion:</b> The sign '<b>FOOD &amp; WINE</b>' will not be seen as an indication of commercial origin, but rather as a description of a characteristic of the services (i.e. the specific subject matter around which the advertising services will be provided).</p>
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Considered not descriptive of the subject matter of the services at issue			
Sign	LIPSTICK	Services	Class 35: Advertising services
Reasoning	<p><b>Relevant public:</b> The services at issue target a specialist public (i.e. professionals).</p> <p><b>Meaning of the sign:</b> The term '<b>LIPSTICK</b>' will be understood by the relevant public as 'a coloured substance in the form of a stick which people put on their lips' <sup>(56)</sup>.</p> <p><b>The services at issue:</b> The services at issue involve the creation and dissemination of advertising materials, commercials, etc. to promote clients' products, services, events, etc. through various media. These materials are usually customised depending on the particular good and/or market sector to be advertised or promoted. By their nature, these services can relate to a specific subject matter.</p> <p><b>Direct relationship between meaning of the sign and the subject matter of the services:</b> Although advertising agencies may occasionally promote specific products such as lipsticks, this is only one of many possible goods and services that can be advertised. Moreover, there are no specialised advertising agencies on the market that exclusively focus on the advertisement of lipsticks. Consequently, the term '<b>LIPSTICK</b>' is not commercially relevant in relation to the services, and when the relevant public encounters this sign in relation to advertising services, they will not perceive it as a description of their subject matter, namely, the market sector to which they relate (in this case, the lipsticks market).</p>		
Sign	PLUMBING	Services	Class 35: Advertising services
Reasoning	<p><b>Relevant public:</b> The services at issue target a specialist public (i.e. professionals).</p> <p><b>Meaning of the sign:</b> The term '<b>PLUMBING</b>' will be understood by the relevant public as referring to 'the water and drainage pipes, baths, and toilets in a building; or as the work of connecting and repairing things such as water and drainage pipes, baths, and toilets' <sup>(57)</sup>.</p> <p><b>The services at issue:</b> The services at issue involve the creation and dissemination of advertising materials, commercials, etc. to promote clients' products, services, events, etc. through various media. These materials are usually customised depending on the particular good and/or market sector to be advertised or promoted. By nature, these services can relate to a specific subject matter.</p> <p><b>Direct relationship between meaning of the sign and the subject matter of the services:</b> Although advertising agencies may occasionally promote services related to specific sectors such as plumbing, this is only one of many possible areas that can be advertised. Moreover, there are no specialised advertising agencies on the market that exclusively focus on the advertisement of plumbing services.</p>		

<sup>(56)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/lipstick> [Accessed 22 May 2025].

<sup>(57)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/plumbing> [Accessed 22 May 2025].



Consequently, the term '**PLUMBING**' is not commercially relevant in relation to the services, and when the relevant public encounters this sign in relation to advertising services, they will not perceive it as a description of their subject matter – namely, the market sector to which they relate (in this case, the plumbing sector).

b) Other services in Class 35

Considered descriptive of the subject matter of the services at issue			
Sign	<b>ELECTRONICS</b>	Services	Class 35: Organising trade fairs
Reasoning	<p><b>Relevant public:</b> The services at issue are aimed at a specialist public (i.e. professionals).</p> <p><b>Meaning of the sign:</b> The term '<b>ELECTRONICS</b>' refers to 'the technology of using transistors and silicon chips, especially in devices such as radios, televisions, and computers; or to electronic devices, or the part of a piece of equipment that consists of electronic devices, as the electronics' <sup>(58)</sup>.</p> <p><b>The services at issue:</b> The services at issue consist of the organisation of trade fairs, which aim to bring together professionals from a particular industry or market sector. This means that, when providing the services, the objects on display, the setting of the trade fair and the audience to which they are addressed will be tailored to the particular industry, market sector and/or field of activity of the trade fair. By their nature, these services can relate to a specific subject matter.</p> <p><b>Direct relationship between meaning of the sign and the subject matter of the services:</b> Trade fairs can be organised and conducted with a specific industry or sector in mind, such as fashion, automobiles, food, or electronics. In commercial practice, it is common for trade fairs to be thematically focused. Therefore, the term '<b>ELECTRONICS</b>' is commercially relevant in relation to those services. When confronted with the sign '<b>ELECTRONICS</b>' in relation to the services, the relevant public will immediately perceive it as a description of the core subject matter of the trade fair (i.e. electronic components). Thus, in this case, '<b>ELECTRONICS</b>' is considered an inherent characteristic of the services at issue.</p> <p><b>Conclusion:</b> The sign '<b>ELECTRONICS</b>' will not be seen as an indication of commercial origin, but rather as a description of a characteristic of the services (i.e. the specific subject matter of the trade fairs being organised).</p>		

Considered not descriptive of the subject matter of the services at issue			
Sign	<b>COUNTRY ROADS</b>	Services	Class 35: Organising trade fairs
Reasoning	<p><b>Relevant public:</b> The services at issue target a specialist public (i.e. professionals).</p> <p><b>Meaning of the sign:</b> The term '<b>COUNTRY ROADS</b>' is the plural form of 'COUNTRY ROAD' which will be understood by the relevant public as 'roads in the country' <sup>(59)</sup>.</p> <p><b>The services at issue:</b> The services at issue consist of the organisation of trade fairs, which aim to bring together professionals from a particular industry or market sector. This means that, when providing the services, the objects on display, the setting of the trade fair and the audience to which they are addressed will be tailored to the particular industry, market sector and/or field of activity of the trade fair. By their nature, these services can relate to a specific subject matter.</p>		

<sup>(58)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/electronics> [Accessed 22 May 2025]

<sup>(59)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/country-road> [Accessed 22 May 2025]

**Direct relationship between meaning of the sign and the subject matter of the services:**  
While trade fairs may occasionally feature topics related to road construction or infrastructure, including aspects concerning country roads, it is commercially unlikely that such events will focus exclusively on country roads. Consequently, the term '**COUNTRY ROADS**' is not commercially relevant in relation to the services, and when confronted with the sign affixed to the services, the relevant public will not perceive it as a description of the core subject matter of the trade fair being organised.

### 2.3.5 Signs applied for services in Class 38

According to the explanatory note of the Nice Classification <sup>(60)</sup>, Class 38 includes mainly services that allow at least one party to communicate with another, as well as services for the broadcasting and transmission of data. Notably, **it expressly excludes, among others, the content or subject matter that may be contained in the communication activity**, such as downloadable image files (Class 9), providing business information via a website (Class 35), or providing films and television programmes via video-on-demand services (Class 41).

In light of the above, services that **are technical by nature**, (i.e. because they only cover the provision of the means of communication, such as networks, broadcasting or transmission facilities), **do not relate to the specific subject matter delivered via these services** — for example, the content of a television program, reality show, film, radio programme, podcast — which is typically covered under classes, such as Class 41 <sup>(61)</sup>.

Accordingly, as a general principle, a sign applied for services under Class 38 **cannot be considered descriptive of the subject matter transmitted through these services, within the meaning of Article 4(1)(c) TMD** <sup>(62)</sup>.

However, this conclusion does not preclude the possibility of an objection based on the sign's descriptiveness of other characteristic(s) of the services such as the nature, kind, or intended purpose, or based on other absolute grounds for refusal, such as Article 4(1)(b) TMD.

### 2.3.6 Examples of signs applied for services in Class 41

Considered descriptive of the subject matter of the services at issue			
Sign	ANCIENT EGYPT	Services	Class 41: Cultural activities
Reasoning	<p><b>Relevant public:</b> The services at issue target both the general public and the professional public.</p> <p><b>Meaning of the sign:</b> The term '<b>ANCIENT</b>' refers to something 'belonging to the distant past, especially to the period in history before the end of the Roman Empire' <sup>(63)</sup>. The term '<b>EGYPT</b>' refers to 'a republic in north-east Africa, on the Mediterranean and Red Sea, which history dates back about 5000 years' <sup>(64)</sup>. As a whole, the sign '<b>ANCIENT EGYPT</b>' will be understood by the relevant public as referring to 'the historical civilisation of Egypt during antiquity, particularly the period of the Pharaohs, pyramids, and other cultural, artistic, and religious aspects associated with Egyptian history'.</p>		

<sup>(60)</sup> World Intellectual Property Organization – '[Explanatory note of the Nice Classification - Class 38: Telecommunications](#)' [Accessed 10 February 2025].

<sup>(61)</sup> See subsection 2.3.6 for examples of signs applied for in Class 41.

<sup>(62)</sup> An exception to this general principle can be, for example, '*information about telecommunication*'.

<sup>(63)</sup> *Collins Dictionary* (2023) Available from <https://www.collinsdictionary.com/dictionary/english/ancient> [Accessed 22 May 2025].

<sup>(64)</sup> *Collins Dictionary* (2023) Available from <https://www.collinsdictionary.com/dictionary/english/egypt> [Accessed 22 May 2025].

	<p><b>The services at issue:</b> The services at issue typically aim to convey, promote, or explore particular cultural, historical, artistic, or social content. These services can be tailored around a specific topic, idea or cultural activity. By their nature, they are able to be related to a specific subject matter.</p> <p><b>Direct relationship between the meaning of the sign and the subject matter of the services:</b> Cultural activities can be designed and delivered with a particular historical, artistic, or social theme in mind. It is common for cultural events or exhibitions to be themed around well-defined subject matter to attract and engage the relevant audience. Therefore, the term '<b>ANCIENT EGYPT</b>' is commercially relevant in relation to these services. When confronted with the sign '<b>ANCIENT EGYPT</b>' in relation to these services, the relevant public will immediately perceive it as a description of the specific subject matter of the cultural activities, namely, that they concern aspects of Ancient Egyptian civilisation. Thus, in this case, '<b>ANCIENT EGYPT</b>' is considered an inherent characteristic of the services at issue (i.e. their subject matter).</p> <p><b>Conclusion:</b> The sign '<b>ANCIENT EGYPT</b>' will not be seen as an indication of commercial origin, but rather as a description of a characteristic of the services (i.e. the subject matter of the cultural activities provided).</p>		
<b>Sign</b>	<b>Sexually Transmitted Diseases</b>	<b>Services</b>	Class 41: Education services
<b>Reasoning</b>	<p><b>Relevant public:</b> The services at issue target the general public and the professional public.</p> <p><b>Meaning of the sign:</b> The term '<b>Sexually Transmitted Diseases</b>', as a whole, will be understood by the relevant public as 'diseases that are spread by means of sexual intercourse or sexual contact between two people' <sup>(65)</sup>.</p> <p><b>The services at issue:</b> The services at issue refer to any activity or program designed to provide knowledge, training, and learning opportunities through courses, workshops, seminars or programs. By their nature, they are able to relate to a specific subject matter, which plays an important role in how they are made available on the market.</p> <p><b>Direct relationship between the meaning of the sign and the subject matter of the services:</b> Education services are often developed and delivered with a clear focus on specific subject matter or areas of knowledge, aiming to inform, teach, or raise awareness among the relevant public. It is common for educational programmes, courses, or workshops to address well-defined topics to meet the needs of learners or target audiences. Therefore, the term '<b>Sexually Transmitted Diseases</b>' is commercially relevant in relation to these services. When confronted with the sign '<b>Sexually Transmitted Diseases</b>' in connection to education services, the relevant public will immediately perceive it as a description of the field of activity that will be taught (i.e. to provide knowledge, skills and learning opportunities related to the prevention, diagnosis, treatment, and awareness of sexually transmitted infections and their impact on public health). Thus '<b>Sexually Transmitted Diseases</b>' is considered an inherent characteristic of the services at issue (i.e. the subject matter of the education services).</p> <p><b>Conclusion:</b> The sign '<b>Sexually Transmitted Diseases</b>' will not be seen as an indication of commercial origin, but rather as a description of a characteristic of the services (i.e. their subject matter).</p>		
<b>Sign</b>	<b>CONTEMPORARY DANCE FESTIVAL</b>	<b>Services</b>	Class 41: Organisation of festivals
<b>Reasoning</b>	<p><b>Relevant public:</b> The services at issue target both the general public and the professional public.</p> <p><b>Meaning of the sign:</b> The term '<b>CONTEMPORARY</b>' refers to 'things that are modern and relate to the</p>		

<sup>(65)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/sexually-transmitted-disease> [Accessed 22 May 2025].

	<p>present time’<sup>(66)</sup>. The term <b>‘DANCE’</b> refers to ‘a particular series of graceful movements of your body and feet, which you usually do in time to music’<sup>(67)</sup>. The term <b>‘FESTIVAL’</b> refers to an organised series of events such as musical concerts or drama productions’<sup>(68)</sup>. As a whole, <b>‘CONTEMPORARY DANCE FESTIVAL’</b> will be understood by the relevant public as an organised series of events or performances focused on modern styles of dance that reflect current artistic trends.</p> <p><b>The services at issue:</b> The services at issue consist of the organisation of festivals, which by nature can be tailored to a specific field of interest – such as music, cinema, art, or dance. These events are structured and promoted according to their subject matter, which plays a crucial role both in how they are presented on the market and on the consumer’s decision to attend the organised events. Thus, by their nature, these services are capable of relating to a specific subject matter.</p> <p><b>Direct relationship between the meaning of the sign and the subject matter of the services:</b> Festivals are events that can be structured and promoted according to their subject matter, which plays a crucial role in both how they are presented on the market and the consumer’s decision to attend. Therefore, the term <b>‘CONTEMPORARY DANCE FESTIVAL’</b> is commercially relevant in relation to these services. When confronted with the sign <b>‘CONTEMPORARY DANCE FESTIVAL’</b> in relation to the organisation of festivals, the relevant public will immediately perceive it as a description of the specific subject matter of the festival – namely, that it is dedicated to contemporary dance performances and related cultural events. Thus, <b>‘CONTEMPORARY DANCE FESTIVAL’</b> is considered an inherent characteristic of the services (i.e. their subject matter).</p> <p><b>Conclusion:</b> The sign <b>‘CONTEMPORARY DANCE FESTIVAL’</b> will not be seen as an indication of commercial origin, but rather as a description of the specific subject matter of the festival being organised.</p>		
<b>Sign</b>	<b>CHILDREN’S SONGS</b>	<b>Services</b>	Class 41: Entertainment
<b>Reasoning</b>	<p><b>Relevant public:</b> The services at issue target the general public.</p> <p><b>Meaning of the sign:</b> The term <b>‘CHILDREN’</b> is the plural of ‘child’, which means ‘a human being who is not yet an adult’<sup>(69)</sup>. The term <b>‘SONGS’</b> is the plural of the word ‘song’, which means ‘a piece of music, usually employing a verbal text, composed for the voice, esp one intended for performance by a soloist’<sup>(70)</sup>. As a whole, <b>‘CHILDREN’S SONGS’</b> will be understood by the relevant public as referring to ‘songs specifically created for or aimed at entertaining children’.</p> <p><b>The services at issue:</b> The services at issue are designed to provide amusement or enjoyment to the public, including but not limited to live performances, music, theatre, dance, storytelling, and other forms of cultural, artistic, or recreational activities. By their nature, they are capable of relating to a specific subject matter.</p> <p><b>Direct relationship between the meaning of the sign and the subject matter of the services:</b> In the context of entertainment services, the specific subject matter often plays an important role in how they are made available on the market, as well as in the consumer’s choice to attend, engage with, or purchase access to them. Therefore, the term <b>‘CHILDREN’S SONGS’</b> is commercially relevant in</p>		

<sup>(66)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/contemporary> [Accessed 22 May 2025].

<sup>(67)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/dance> [Accessed 22 May 2025].

<sup>(68)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/festival> [Accessed 22 May 2025].

<sup>(69)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/child> [Accessed 22 May 2025].

<sup>(70)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/song> [Accessed 22 May 2025].

	<p>relation to these services. Consequently, when confronted with the sign '<b>CHILDREN'S SONGS</b>' in connection with these services, the relevant public will immediately perceive it as a description of the specific subject matter of the entertainment being offered – namely, musical content aimed at children. Thus, '<b>CHILDREN'S SONGS</b>' is considered an inherent characteristic of the services at issue (i.e. their subject matter).</p> <p><b>Conclusion:</b> The sign '<b>CHILDREN'S SONGS</b>' will not be perceived as an indication of commercial origin, but rather as a descriptive reference to the subject matter of the entertainment services.</p>		
<b>Sign</b>	<b>ARCHITECTURE</b>	<b>Services</b>	Class 41: Publishing services
<b>Reasoning</b>	<p><b>Relevant public:</b> The services at issue target both the general public and the professional public.</p> <p><b>Meaning of the sign:</b> The term '<b>ARCHITECTURE</b>' will be understood by the relevant public as 'the art of planning, designing, and constructing buildings' <sup>(71)</sup>.</p> <p><b>The services at issue:</b> The services at issue consist of publishing activities, which include the preparation, production, and distribution of printed or digital content such as books, magazines, journals, and other written materials. These services are typically intended to inform, educate, or entertain, and can be tailored to specific areas of interest or sectors of knowledge. By their nature, they are capable of relating to a specific subject matter.</p> <p><b>Direct relationship between the meaning of the sign and the subject matter of the services:</b> Publishing services can be structured and marketed according to the subject matter they cover, as this determines their target audience and commercial positioning. In commercial practice, it is common for publishing houses or editorial divisions to specialise in particular fields of knowledge or areas of interest, such as science, history, law, or the arts, and to market their services accordingly. Therefore, the term '<b>ARCHITECTURE</b>' is commercially relevant in relation to these services. When confronted with the sign '<b>ARCHITECTURE</b>' in connection with the services, the relevant public will immediately perceive it as a description of the specific subject matter of the services, namely, that the publishing activities concern content related to architecture, such as architectural theory, design or practice. Thus, '<b>ARCHITECTURE</b>' will describe an inherent characteristic of the services at issue.</p> <p><b>Conclusion:</b> The sign '<b>ARCHITECTURE</b>' will not be seen as an indication of commercial origin, but rather as a description of a characteristic of the services (i.e. their subject matter).</p>		
<b>Sign</b>	<b>FILM-MAKING</b>	<b>Services</b>	Class 41: Education
<b>Reasoning</b>	<p><b>Relevant public:</b> The services at issue target both the general public and the professional public.</p> <p><b>Meaning of the sign:</b> The term '<b>FILM-MAKING</b>' will be understood by the relevant public as 'the activity or business of producing and directing films' <sup>(72)</sup>.</p> <p><b>The services at issue:</b> The services at issue refer to any activity or program designed to provide knowledge, training, and learning opportunities through courses, workshops, seminars or programs. By their nature, they are able to relate to a specific subject matter.</p> <p><b>Direct relationship between the meaning of the sign and the subject matter of the services:</b> Education services can be structured and promoted according to the specific subject matter they cover, such as language learning, science, art, or technology. Therefore, the term '<b>FILM-MAKING</b>' is commercially relevant in relation to these services. When confronted with the sign '<b>FILM-MAKING</b>' in connection with education services, the relevant public will immediately perceive it as a description of</p>		

<sup>(71)</sup> Collins Dictionary (2023) Available from <https://www.collinsdictionary.com/dictionary/english/architecture> [Accessed 22 May 2025].

<sup>(72)</sup> Collins Dictionary (2023) Available from: <https://www.collinsdictionary.com/dictionary/english/film-making> [Accessed 10 February 2025].



	<p>the specific subject matter of the services, namely, education or training focused on the techniques and processes involved in creating films. Thus, <b>'FILM-MAKING'</b> will describe an inherent characteristic of the services at issue.</p> <p><b>Conclusion:</b> The sign <b>'FILM-MAKING'</b> will not be seen as an indication of commercial origin, but rather as a description of a characteristic of the services (i.e. the subject matter of the education services).</p>
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Considered not descriptive of the subject matter of the services at issue			
Sign	HELMET	Services	Class 41: Sporting and cultural activities
Reasoning	<p><b>Relevant public:</b> The services at issue target both the general public and the professional public.</p> <p><b>Meaning of the sign:</b> The term <b>'HELMET'</b> will be understood by the relevant public as 'a hat made of a strong material which you wear to protect your head' <sup>(73)</sup>.</p> <p><b>The services at issue:</b> The services at issue are aimed at offering sporting and cultural activities (i.e. activities that involve physical exertion, skills and competition or the participation in or appreciation of activities related to arts, traditions and/or creative expressions). Therefore, they are services that can be tailored or adapted depending on a specific sport or cultural activity, and thus, by their nature, they are able to be related to a specific subject matter.</p> <p><b>Direct relationship between the meaning of the sign and the subject matter of the services:</b> While sporting and cultural activities may occasionally involve the use of helmets – for example, in cycling, motor racing, or traditional cultural performances – it is commercially unlikely that such activities will focus exclusively on helmets. Multiple mental steps are required to link the sign <b>'HELMET'</b> directly to the subject matter of the services, and thus, the term <b>'HELMET'</b> is not commercially relevant in relation to the services. Consequently, when confronted with the sign <b>'HELMET'</b> in relation to sporting and cultural activities, the relevant public will not perceive it as a description of the specific subject matter of the services.</p>		

### 2.3.7 Examples of signs applied for services in Class 42

Considered descriptive of the subject matter of the services at issue			
Sign	E-SECURITY	Services	Class 42: Software as a Service (SaaS)
Reasoning	<p><b>Relevant public:</b> The services at issue target both the general public and the professional public.</p> <p><b>Meaning of the sign:</b> The prefix <b>'E-'</b> is commonly used to form words that indicate that something happens on or uses the internet <sup>(74)</sup>, and the term <b>'SECURITY'</b> will be understood by the relevant public as referring to 'all the measures that are taken to protect a place, or to ensure that only people with permission enter it or leave it' <sup>(75)</sup>. As a whole, <b>'E-SECURITY'</b> will be understood by the relevant public as referring to security measures or services related to digital environments, the internet, or electronic systems.</p> <p><b>The services at issue:</b> The services at issue refer to the cloud-based delivery of software applications accessible via the internet. These services may offer a wide variety of functionalities, including both</p>		

<sup>(73)</sup> Collins Dictionary (2023) Available from: <https://www.collinsdictionary.com/dictionary/english/helmet> [Accessed 10 February 2025].

<sup>(74)</sup> Collins Dictionary (2023) Available from: <https://www.collinsdictionary.com/dictionary/english/e> [Accessed 10 February 2025].

<sup>(75)</sup> Collins Dictionary (2023) Available from: <https://www.collinsdictionary.com/dictionary/english/security> [Accessed 10 February 2025].



	<p>content-driven and task-oriented solutions. Such services can be specifically designed around a particular subject matter, such as a platform focused on digital security or cybersecurity training. The subject matter around which a Software as a Service (SaaS) solution is developed plays a central role in how the service is developed, positioned on the market, and selected by users. By their nature, they are capable of relating to a specific subject matter.</p> <p><b>Direct relationship between the meaning of the sign and the subject matter of the services:</b> To meet the specific needs of clients, these services are often tailored around a specific subject matter, such as online security. Therefore, the term '<b>E-SECURITY</b>' is commercially relevant in relation to these services. When confronted with the sign '<b>E-SECURITY</b>' in connection to the services at issue, the relevant public will immediately perceive it as a description of the specific subject matter of the services, in particular, indicating that the services relate to the field of digital security. This may include, for example, platforms offering educational, or training content focused on online security, security awareness tools, policy and compliance portals focused on digital protection. Thus, in this case, '<b>E-SECURITY</b>' is considered an inherent characteristic of the services at issue.</p> <p><b>Conclusion:</b> The sign '<b>E-SECURITY</b>' will not be seen as an indication of commercial origin but rather as a description of a characteristic of the services (i.e. their specific subject matter).</p>
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Considered not descriptive of the subject matter of the services at issue			
Sign	MOUSE GEEK	Services	Class 42: Computer software design
Reasoning	<p><b>Relevant public:</b> The services at issue target the professional public.</p> <p><b>Meaning of the sign:</b> The term '<b>MOUSE</b>' refers, inter alia, to 'a device that is connected to a computer. By moving it over a flat surface and pressing its buttons, you can move the cursor around the screen and do things without using the keyboard' <sup>(76)</sup>. The term '<b>GEEK</b>' refers to 'a person who is knowledgeable and enthusiastic about a specific subject' <sup>(77)</sup>. As a whole, '<b>MOUSE GEEK</b>' will be understood by the relevant public as referring to a person who is particularly knowledgeable or enthusiastic about computer mice or, more broadly, computer technology or accessories.</p> <p><b>The services at issue:</b> The services at issue involve creating, developing, and maintaining software applications tailored to meet the needs of various users or industries. By their nature, these services can be designed to address specific subject matters, depending on the software's purpose or target market. Thus, they are able to relate to a specific subject matter.</p> <p><b>Direct relationship between the meaning of the sign and the subject matter of the services:</b> The term '<b>MOUSE GEEK</b>' does not correspond to a commercially relevant category within the computer software design services and, as such, does not immediately provide information about the content of the services. When confronted with the sign '<b>MOUSE GEEK</b>' in connection with computer software design services, the relevant public will not perceive it as a description of the specific subject matter of the services, as it is unlikely that such services would focus on mouse technology or target a niche audience defined by the term '<b>MOUSE GEEK</b>'.</p>		

<sup>(76)</sup> Collins Dictionary (2023) Available from: <https://www.collinsdictionary.com/dictionary/english/mouse> [Accessed 22 May 2025].

<sup>(77)</sup> Collins Dictionary (2023) Available from: <https://www.collinsdictionary.com/dictionary/english/geek> [Accessed 22 May 2025].