

**BENELUX OFFICE FOR INTELLECTUAL PROPERTY**  
**CANCELLATION DECISION**  
**N° 3000500**  
**12 March 2024**

**Claimant:** **Motel One GmbH**  
Tegernseer Landstrasse 165  
81539 München  
Germany

**Representative:** **Bird & Bird (Netherlands) LLP**  
T.a.v. Mw. Rieger  
Zuid-Hollandplein  
222596 AW Den Haag  
The Netherlands

*against*

**Defendant:** **Kerten Unlimited Company**  
13-18 City Quay  
Dublin 2  
Ireland

**Representative:** **Merkenbureau Knijff & Partners B.V.**  
Leeuwendeldseweg 12  
1382 LX Weesp  
The Netherlands

**Contested trademark:** **International registration 1289123**



## **I. FACTS AND PROCEEDINGS**

### **A. Facts**

1. On 27 October 2022, the claimant filed an application for cancellation in accordance with Article 2.30bis (1)(a) of the Benelux Convention on Intellectual Property (hereinafter: "BCIP") based on the ground for revocation set out in Article 2.27 (2) BCIP, namely that no genuine use has been made of the contested trademark in accordance with Article 2.23bis BCIP.

2. The cancellation application is directed against the international registration 1289123 designating, among others, the Benelux, filed and registered on 17 September 2015 for services in Classes 36, 41, 43



and 44, of the combined word-/figurative trademark . The statement of grant of protection in the Benelux has been published on 26 May 2016.

3. The cancellation application is directed against all goods of the contested trademark, namely:

- Class 36: Real estate administration; real estate services; real estate investment; real estate management; rental of real estate; management of real estate; lease of real estate; leasing of real estate; capital investment in real estate.
- Class 41: Entertainment.
- Class 43: Temporary accommodation; temporary accommodation reservations; temporary accommodation reservations; temporary accommodation services; temporary accommodation reservations; providing temporary accommodation; rental of temporary accommodation; provision of temporary accommodation; arranging of temporary accommodation; booking of temporary accommodation; reservation of temporary accommodation; provision of food and beverages; preparation of food and beverages; providing food and beverages; serving food and drinks; catering of food and drinks; catering for the provision of food and beverages.
- Class 44: Medical clinics; medical spa services.

4. The language of the proceedings is English.

### **B. Course of the proceedings**

5. The cancellation action is admissible and was notified by the Benelux Office for Intellectual Property (hereinafter: "the Office") to the parties on 31 October 2022. During the administrative phase of the proceedings both parties filed arguments. The course of the proceedings meets the requirements as stated in the BCIP and the Implementing Regulations (hereinafter: "IR"). As the application relates exclusively to a declaration of revocation for non-use, pursuant to Rule 1.31(2) of the IR, the defendant was first given the opportunity to react in writing by submitting proof of use or substantiating that there are proper reasons for not using the contested trademark, after which the claimant and, finally, the defendant were asked to react. The administrative phase was completed on 12 May 2023.

## **II. ARGUMENTS**

### **A. Defendant's arguments**

6. Before going through the proof of use submitted, the defendant explains that the relevant period for genuine use to be demonstrated is from 27 May 2021 (five years after the Grant Date) to 27 October 2022 (filing date of the Request for Cancellation).

7. The defendant quotes judgments of the CJEU to define genuine use and reminds that genuine use during part of the relevant period is sufficient. Besides, he points out that the lack of a quantitative standard for genuine use is highlighted in various CJEU decisions, supporting the argument that commercial success is not a requirement. The defendant also indicates that use in one of the Benelux countries may be sufficient for genuine use in the entire Benelux, as per the Court of Appeal the Hague. A recent General Court decision (Case T-768/20 – “The Standard”) is cited as precedent by the defendant, emphasizing that genuine use is not limited to the location where services are offered but includes countries where services are advertised, offered for sale, and where the relevant public is located. The defendant contends that the decision by the General Court is relevant to the current revocation action and concludes that it is not necessary to show proof of provided services in the Benelux as advertising and sales of these services in the Benelux are sufficient to demonstrate genuine use.

8. Regarding the evidence of use presented, the defendant informs about his background and reputation in particular that the company has been incorporated in Ireland in 2004, operates as a leading investment firm across various sectors, including hospitality, and that the defendant's reputation extends across Europe, Turkey, the Middle East, and Africa. The defendant explains that Kerten Hospitality, as the group holding name, encompasses all products, including the contested trademark. In his opinion, the contested trademark is actively promoted, advertised, and sold by the Kerten Hospitality Team, mainly based in Europe.

9. The defendant establishes that a license agreement exists between the defendant and Rerna Limited, a Malta-based affiliate, sublicensing the contested trademark to Oasis 33 Mixed Use Development LLC. Besides, the defendant shows invoices issued for the base license fee and ongoing sales and marketing fees to the hotel owner of CLOUD.7 Hotel Residences Ayla Aqaba in Jordan and explains that fees contribute to international sales, marketing, and promotion of the contested trademark, targeting the relevant public in the Benelux. The defendant owns the domain cloud7hotels.com, where customers worldwide, including the Benelux region, can book accommodations. The defendant also points out that the website features the contested trademark, as evidenced by prints from the landing page and the Internet Archive and provides a screenshot of the online booking engine for CLOUD.7 Hotel Residences Ayla Aqaba in order to demonstrate the use of the logo during the booking process. The defendant also submits a photo of the entrance to CLOUD.7 Hotel Residences Ayla Aqaba which displays the contested trademark in order to show physical presence and visibility. The defendant presents detailed data on Benelux guests staying at CLOUD.7 Hotel Residences Ayla Aqaba, including invoices issued to guests from the Benelux region. The defendant refers to reviews from Booking.com to further substantiate the active use of the contested trademark by guests from the Benelux region. Finally, the defendant's submits extracts of the LinkedIn page, which display the contested trademark.

10. Consequently, the defendant asserts that the evidence submitted demonstrates with certainty and clarity that there has been genuine use of the contested trademark directly and through licensees, for the services concerned in the relevant period.

11. The defendant explains that, according to Article 2.23bis (1) BCIP, proper reasons for non-use of the Contested trademark can be claimed due to the impact of the Covid-19 pandemic on the hospitality sector and emphasizes that 'proper reasons' refer to circumstances beyond the owner's control that make use impossible or unreasonable, excluding commercial difficulties. The defendant contends that, as per the EUIPO Trademark and Design Guidelines, the pandemic falls under force majeure, an unforeseeable situation affecting the hospitality industry beyond their control and also points out to government restrictions on travel, stay-at-home orders, and emergency legislation as examples of government intervention that directly influenced the hospitality sector. The defendant draws attention to legal precedents where proper reasons for non-use were accepted, citing cases and legal disputes. He argues that these cases bear resemblance to his situation during government-imposed lockdowns and restrictions. The defendant presents various articles and opinions from the hospitality industry, quoting statistics on revenue loss, occupancy rates, and the decline in the hotel market and asserts that these economic hardships validate his claim of proper reasons for non-use. According to the defendant, expert opinions from KPMG and Alvarez & Marsal Corporate Transformation Services LLP support his argument that Covid-19 should be considered force majeure, significantly impacting the hospitality sector. The defendant cites cases where state prohibitions for health or national defense reasons were accepted as proper reasons for non-use.

12. In conclusion, the defendant asserts that the evidence and arguments provided sufficiently demonstrate genuine use of the contested trademark within the relevant period in the Benelux territory and in connection to the relevant services in respect of which the contested trademark has been registered, even considering the proper reasons for non-use during the pandemic. The defendant therefore requests the rejection of the revocation request in its entirety.

## **B. Claimant's arguments**

13. The claimant argues that the defendant has failed to provide evidence of genuine use of the contested trademark in connection with the claimed services for a continuous period of five years, as required by Art. 2.27 (2) jo. Art. 2.23bis BCIP. Specifically, the claimant contends that there is no evidence of use for the services in Class 36, Class 41, and Class 44, as the defendant's submission does not even claim use of the contested trademark for these services. Regarding the services in Class 43, the claimant acknowledges that the defendant claims use, but argues that the submissions fail to establish genuine use of the contested trademark in the relevant period in the Benelux. The claimant argues that there is no real commercial exploitation or advertising/promotion of the contested trademark in the Benelux during the relevant period (27 May 2021 to 27 October 2022).

14. The claimant presents a detailed analysis of the evidence submitted by the defendant and considers that the majority of the submitted documents are internal and contractual, lacking evidence of public and external use on the relevant market. Additionally, he points out that many documents do not meet the conditions for establishing genuine use, as set out in Article 2.23bis (1) BCIP as they are undated, outside the relevant period, and relate to intended trademark use outside the relevant territory. The claimant disputes the relevance of a General Court decision (Case T-768/20 - "The Standard") cited by the

defendant, arguing that it does not change the fact that genuine use has not been proven in the present case. According to the claimant, the evidence provided by the defendant fails to demonstrate effective and consistent market presence, and there is no indication that the relevant public perceived the contested trademark as an indication of service origin.

15. The claimant argues that the defendant's arguments regarding the Covid-19 pandemic do not constitute a proper reason for non-use of the contested trademark. According to the claimant, the defendant has not demonstrated a direct link between pandemic-related restrictions and the impossibility or unreasonableness of using the contested trademark. He argues that the defendant could have adapted his strategy and overcome economic challenges during the pandemic. The claimant also emphasizes that no evidence has been provided by the defendant demonstrating that the actual use of the contested trademark for the relevant services was abandoned due to the Covid-19 pandemic. He questions the existence of the purported licenses with a Jordanian entity. The claimant highlights data from the European hotel industry, showing that many hotels opened, and the sector showed signs of recovery during the pandemic. He suggests that other businesses in the same sector managed to maintain or expand their operations despite the challenges posed by the pandemic. The claimant rejects the defendant's comparisons with other cases where valid grounds for non-use were recognized. He argues that situations cited by the defendant, such as drugs requiring legal authorization, are different from that of the contested trademark, which was not subject to such authorization.

16. The claimant also challenges the defendant's invocation of the "government intervention defense". He considers that government measures such as lockdowns did not render the use of the contested trademark impossible and that other businesses managed to maintain their operations despite these measures.

17. Consequently, the claimant considers that the contested trademark has not been genuinely used in the relevant period and for the relevant territory without a proper reason for non-use and therefore requests that the contested trademark shall be revoked in its entirety.

### **C. Defendant's final arguments**

18. The defendant reiterates its previous arguments, in particular regarding the relevant period, the undated documents or documents outside the relevant period, the use in the relevant territory and the global assessment of the evidence provided. Besides, regarding the goods and services, the defendant indicates that the other services falling in classes 36, 41 and 44 are inevitably provided by parties who provide hotel and hospitality services in class 43.

19. According to the defendant, when the provided documents are considered fully, it must be perceived the evidence proves that the Defendant offers and sells the relevant services in Benelux and to guests, visitors and customers from Benelux. Therefore, when assessing genuine use of a trademark for hotel and ancillary services, the actual location of the hotel does not have to be in Benelux. The owner merely needs to show use in the form of advertising or promotion for hotel and ancillary services in Benelux or sales of for hotel and ancillary services to the relevant public in Benelux. Despite the COVID-19 pandemic, the defendant considers that he has done all within his power to create and maintain a share in the market. The defendant indicates that he has kept pursuing his commercial activities if and when the COVID-19

restrictions and prohibitions allowed it. According to the defendant, the evidence submitted demonstrates with certainty and clarity that there has been genuine use of the contested trademark directly and through licensees, for the relevant services, in the relevant territory and within the relevant period.

20. Regarding the proper reason for non-use, the defendant clarifies that their claim of proper reasons for non-use serves as an alternative argument in the event that the evidence of genuine use is deemed insufficient by the Office. The defendant argues that the COVID-19 pandemic constitutes a proper reason for non-use, especially in the hospitality sector, citing various articles and expert opinions supporting this claim. In conclusion, the defendant argues that the Claimant's presentation of data and statistics lacks context and ignores the devastating consequences of the COVID-19 pandemic on the hospitality sector, as evidenced by independent reports and articles submitted by the defendant. The defendant draws parallels between EU decisions regarding COVID-19 and the present case to explain its point of view. The defendant then highlights its efforts to expand its market share post-COVID-19 by opening new properties and attracting guests from the Benelux region to the Cloud.7 Hotel.

21. According to the defendant, the claimant accuses him repeatedly of acting in bad faith. Although bad faith is not included in the grounds for the current revocation proceedings, and these proceedings are not the place nor the time to discuss the disturbed relations between the claimant and the defendant, the latter feels the need to respond nonetheless to the allegations of the claimant. The defendant believes that the claimant makes improper use of the revocation proceedings to attack the contested trademark obviously knowing the difficulties the defendant as well as the entire hospitality industry faced due to the COVID-19 pandemic. At the same time, the defendant considers that the claimant adopted the highly similar trademark CLOUD ONE, for which trademark applications were filed including an application in the European Union (no. 018710481) dated 30 May 2022, which was opposed by the defendant. The defendant considers that the claimant filed revocation actions against several of the defendant's registrations in an attempt to retaliate. In addition to adopting a highly similar trademark, the defendant states that the claimant copies other trademarks of the defendant (i.e.: "DNA" and "ethos").

22. According to the defendant, it is clear from the submissions and evidence filed in support that the contested trademark is a key trademark for the hospitality wing of its business. The defendant indicates that he has put the contested trademark to genuine use in very difficult circumstances and has certainly put considerable resources into developing the trademark and trying to create and maintain a market in Benelux. The ability to launch new projects was seriously hampered due to the pandemic with delays in planning permission, closure of building sites etc. However, the defendant states that he has persevered, and use of the contested trademark will continue and develop further over the coming years within the EU and Benelux territory.

23. The defendant wishes that the request for revocation should be rejected in its entirety and indicates that, in case the Office would be of the opinion that the evidence and observations provided are insufficient to prove that the contested trademark has been genuinely used in the Benelux for the relevant services in the relevant period, its arguments and evidence show that proper reasons for non-use of the contested trademark exist and that consequently, the request for revocation should be rejected in its entirety.

### **III. DECISION**

## A.1 Legal framework

24. Pursuant to Article 2.30bis (1)(a) in conjunction with Article 2.30quater (1) BCIP an application for revocation may be filed with the Office based on the grounds set out in Article 2.27 (2) BCIP. It is in that case up to the defendant to provide proof that genuine use has been made of the contested trademark in accordance with Article 2.23bis BCIP in a period of five years prior to the date of the application for revocation in the Benelux territory or that there are proper reasons for non-use.

25. The application for revocation was submitted on 27 October 2022. Therefore, the defendant is required to show genuine use of the contested trademark, during the period from 27 October 2017 to 27 October 2022 ("the relevant period").

## A.2 Proof of use

### *In general*

26. In accordance with the case-law of the European Court of Justice ("CJEU") there is genuine use of a trademark if the mark, in accordance with its essential function, which is to guarantee the identity of the origin of the goods or services for which it is registered, is used in order to create or preserve an outlet for those goods or services, not including token use for the sole purpose of preserving the rights conferred by the mark.<sup>1</sup> When assessing whether use of the trademark is genuine, must be taken into account all the facts and circumstances relevant to establishing whether the commercial use of the mark is real, particularly the practices regarded as warranted in the relevant economic sector as a means of maintaining or creating market shares for the goods or services protected by the mark, the nature of those goods or services, the characteristics of the market and the scale and frequency of use of the mark.<sup>2</sup> In that regard, the condition relating to genuine use of the trademark requires that the mark, as protected in the relevant territory, be used publicly and outwardly.<sup>3</sup>

27. The General Court held that use of the earlier mark need not always be quantitatively significant for it to be deemed genuine.<sup>4</sup> In interpreting the concept of genuine use, account should be taken of the fact that the *ratio legis* of the requirement that the mark must have been put to genuine use is not to assess commercial success or to review the economic strategy of an undertaking, nor is it to restrict trademark protection to the case where large-scale commercial use has been made of the marks.<sup>5</sup>

28. Genuine use of a trademark cannot be proven by means of probabilities or suppositions but must be demonstrated by solid and objective evidence of effective and sufficient use of the trademark on the market concerned.<sup>6</sup>

29. Following rule 1.41 io. 1.25 IR the proof of use should contain evidence of the place, duration, extent, and manner of use of the contested trademark for the goods concerned.

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<sup>1</sup> CJEU 3 July 2019, C-668/17, ECLI:EU:C:2019:557, point 38 (Viridis) and CJEU 11 March 2003, C-40/01, ECLI:EU:C:2003:145, point 43 (Ansul).

<sup>2</sup> CJEU 31 January 2019, C-194/17, ECLI:EU:C:2019:80, point 83 (Pandalis) and CJEU 11 March 2003, C-40/01, ECLI:EU:C:2003:145, point 43 (Ansul).

<sup>3</sup> EGC 4 April 2019, T-910/16 and T-911/16, ECLI:EU:T:2019:221, point 29 and the case-law mentioned there (Testa Rossa).

<sup>4</sup> EGC 8 July 2004, T-334/01, ECLI:EU:T:2004:223, point 36 (Hipoviton) and EGC 30 April 2008, T-131/06, ECLI:EU:T:2008:135, point 41 (Sonia Rykiel).

<sup>5</sup> EGC 4 April 2019, T-910/16 and T-911/16, ECLI:EU:T:2019:221, point 28 and the case-law mentioned there (Testa Rossa).

<sup>6</sup> EGC 8 July 2020, T-686/19, ECLI:EU:T:2020:320, point 35 (GNC LIVE WELL).

*Analysis of the proof of use*

30. The defendant submitted the following exhibits to demonstrate genuine use of the contested trademark:

1. License agreement in connection to Cloud 7 Hotel residences Ayla Aqaba;
2. Brand fee invoice in connection to Cloud 7 Hotel residences Ayla Aqaba;
3. 37 invoices for the base license fee and ongoing sales and marketing fees in connection to Cloud 7 Hotel residences Ayla Aqaba;
4. Print from current website <https://cloud7hotels.com/together> with print from earlier version of the website using The Wayback Machine;
5. Screenshot of the of Cloud 7 Hotel residences Ayla Aqaba booking engine;
6. Photo of the entrance of Cloud 7 Hotel residences Ayla Aqaba;
7. Overview detailed number of Benelux guests;
8. Invoices to guests from Benelux in 2021 and 2022;
9. Prints from the Booking.com page for Cloud 7 Hotel residences Ayla Aqaba together with prints of reviews of guests from Benelux;
10. Print from the Defendants' LinkedIn page;
11. World Health Organization's living document (Version 3.0, from 31/12/2019 to 31/12/2021) entitled "A Timeline of WHO's Covid-19 Response in the WHO European Region";
12. Article from Allianz Trade, "The Hotel California effect: How the European hospitality sector is looking for people who stay", dated 23/03/2021;
13. Article from European Parliament's Committee on Transport and Tourism's publication entitled "Relaunching transport and tourism in the EU after Covid-19; Part IV: Tourism sector", dated November 2021;
14. Article from Hospitality Insights, "How do you value a hotel after two years of chaos?", dated 11/01/2022;
15. Article from HVS, "The Impact of Covid-19 on the European Hotel Sector", dated 23/09/2020;
16. Article from Hospitality Net, "Outlook for Hotels in Europe and UK for 2020", dated 02/11/2020;
17. Article from Cushman & Wakefield, "Covid-19 Impacts on European Hospitality", dated 08/03/2021;
18. Articles from Taylor Wessing, "Covid-19: Proper reasons for nonuse?" dated 09/04/2020;
19. Taylor Wessing, "Covid-19: What should brands lawyers be thinking about?", dated 09/04/2020;
20. Barzano & Zanardo, "Revocation for non-use of EU trademarks", dated 06/07/2020;
21. Allen & Overy, "Issues brand owners need to consider during the Covid-19 coronavirus pandemic to protect their IP portfolios", dated 27/04/2020;
22. Opinion from independent experts KPMG, dated 01/11/2022;
23. Opinion from independent experts Alvarez & Marsal Corporate Transformation Services LLP, dated 01/11/2022.

31. The Office establishes that the contested trademark has been registered for services in classes 36, 41, 43 and 44. However, the defendant only provided proof of use for part of the services of class 43.

32. The defendant presented no evidence of use for services in classes 36, 41 and 44. The Office disagrees with the defendant's argument (point 18) that these services are so closely related to the field of



hospitality that use of the latter constitutes use of the former. Consequently, the Office finds that the defendant has failed to demonstrate genuine use of the contested trademark for these services.

33. As rightly pointed out by the defendant, where the services covered by the contested trademark are provided outside the relevant territory, such as holiday accommodation, the acts of use of the contested trademark seeking to promote and to offer for sale such services are necessarily taking place outside that territory. Even if the defendant were to supply services outside of the relevant territory, it is conceivable that he would make use of the contested trademark to create or preserve an outlet for those services within the relevant territory. Thus, the evidence concerning defendant's hotel and ancillary services outside of the relevant territory have to be taken into account here.<sup>7</sup>

34. The Office establishes that even if the services are not physically provided in the Benelux, there are 70 invoices featuring the contested trademark addressed to customers in the Benelux between 2021 and 2022. These services have been advertised and offered for sale in the Benelux as shown in the screenshots of the booking portal accessible to customers via the defendant's website featuring the contested trademark (dated 30 September 2022) and reviews (dated 2021 and 2022) left by Benelux customers via third-party online booking websites ([www.booking.com](http://www.booking.com)). The Office considers that these documents are sufficient to show the existence of a genuine use of the contested trademark for accommodations related services.

35. In the light of the foregoing, the Office concludes that the documents submitted, considered as a whole, constitute sufficient evidence of genuine use of the contested trademark in the relevant period in the Benelux for the following services in Class 43: *Temporary accommodation, temporary accommodation reservations, temporary accommodation reservations, temporary accommodation services, temporary accommodation reservations, providing temporary accommodation, rental of temporary accommodation, provision of temporary accommodation, arranging of temporary accommodation, booking of temporary accommodation, reservation of temporary accommodation.*

36. Regarding the remaining services in class 43, i.e. *provision of food and beverages, preparation of food and beverages, providing food and beverages, serving food and drinks, catering of food and drinks, catering for the provision of food and beverages*, the Office considers that, although these services could be rendered in the context of a hotel, the defendant has not provided any evidence of genuine use relating thereto apart from two invoices indicating "grab and go food" and therefore the Office considers that it is not sufficient to establish any genuine use for these services.

37. Insofar as the defendant claims to have a proper reason for non-use, the Office points out that this can only apply to those services for which no genuine use has been shown. As stated in points 25 and 29, the defendant did not show any use for the remaining services in classes 36, 41, 43 and 44. He only refers to constraints in certain sectors due to the Covid-19 crisis but did not demonstrate that he made concrete preparations or even plans to commence genuine use for these specific services and was unable to realise them. Besides, much of the relevant period in this case relates to the period before the Covid-19 crisis.

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<sup>7</sup> EGC 13 July 2022, T-768/20, ECLI:EU:T:2022:458, points 31-40 (The Standard); BenCJ 15 February 2023, C 2021/3, point 14 (HOTEL CIPRIANI).

Given the concept of “genuine use”, it would be contrary to the scheme of the provision to confer too broad a scope on the concept of proper reasons for non-use of a trademark.<sup>8</sup>

## **B. Other factors**

38. The defendant seems to argue that the use period only started after the “grace period” of five years following the registration of the contested trademark and that the relevant period should therefore run from 27 May 2021 to 27 October 2022 (point 25). The Office reminds that the “grace period” is a period during which it is not necessary to demonstrate use of the trademark to rely upon it. However, this does not release the proprietor of his obligation to use the trademark. Once this period lapses, the proprietor may be required to prove genuine use of his trademark during the five years preceding the revocation request, including the years originally covered by the grace period. Therefore, the parties' argument concerning the limitation of the period in which genuine use had to be demonstrated is incorrect.

39. Based on the ground of this proceedings (point 1) – non-use of the contested trademark – it is evident that the issue of bad faith is not within the scope of examination for the present decision.

## **C. Conclusion**

40. Based on the foregoing the Office concludes that the defendant did only provide sufficient proof of use of the contested trademark in the Benelux within the relevant period for part of the goods in class 43, namely *Temporary accommodation, temporary accommodation reservations, temporary accommodation reservations, temporary accommodation services, temporary accommodation reservations, providing temporary accommodation, rental of temporary accommodation, provision of temporary accommodation, arranging of temporary accommodation, booking of temporary accommodation, reservation of temporary accommodation*, but not for the remaining services in classes 36, 41, 43 and 44.

## **IV. DECISION**

41. The cancellation application with number 3000500 is partially justified.

42. Benelux designation of the international registration 1289123 will only remain registered for part of the services for which genuine use has been demonstrated in class 43, namely *Temporary accommodation, temporary accommodation reservations, temporary accommodation reservations, temporary accommodation services, temporary accommodation reservations, providing temporary accommodation, rental of temporary accommodation, provision of temporary accommodation, arranging of temporary accommodation, booking of temporary accommodation, reservation of temporary accommodation*.

43. Benelux designation of the international registration 1289123 will be cancelled for:

*Cl 36 Real estate administration; real estate services; real estate investment; real estate management; rental of real estate; management of real estate; lease of real estate; leasing of real estate; capital investment in real estate.*

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<sup>8</sup> CJEU 14 June 2007, C-246/05, ECLI:EU:C:2007:340, points 50-55 (Häupl).

*Cl 41 Entertainment.*

*Cl 43 Provision of food and beverages; preparation of food and beverages; providing food and beverages; serving food and drinks; catering of food and drinks; catering for the provision of food and beverages.*

*Cl 44 Medical clinics; medical spa services.*

44. Neither of the parties shall pay the costs in accordance with article 2.30ter (5) BCIP in conjunction with rule 1.44 (2) IR, as the cancellation application is only partly justified.

The Hague, 12 March 2024



Flavie Rougier  
(*rapporteur*)

Tineke Van Hoey

Pieter Veeze

Administrative officer: Rémy Kohlsaet