

**O/0002/26**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF**

**TRADE MARK REGISTRATION NO. UK00003404810**

**BEAM LIGHTING**

**IN THE NAME OF**

**EUROCABLES (BELFAST) LIMITED**

**IN CLASS 11**

**AND**

**AN APPLICATION FOR A DECLARATION OF INVALIDITY**

**THERE TO UNDER NO. CA000507166**

**BY AMAZON TECHNOLOGIES, INC.**

## Background and pleadings

1. On 6 June 2019, Eurocables (Belfast) Limited (“the registered proprietor”) applied to register the mark shown below. It is registered under No. UK00003404810, dated 25 October 2019.

# BEAM LIGHTING

2. The mark is registered for the following goods:

Class 11    Light fittings; Lighting and lighting reflectors; Lighting devices for showcases; Lighting elements; Lighting fixtures; Lighting fixtures for commercial use; Lighting fixtures for household use; Lighting for display purposes; Lights for external installation.

3. Amazon Technologies, Inc. (“the cancellation applicant”) made an application to have the above mark declared invalid under section 47(2) of the Trade Marks Act 1994 (“the Act”) using Form TM26(I), accompanied by a statement of grounds, which was made on 19 March 2024. The application is based upon section 5(2)(b) of the Act and concerns all the goods that the contested mark is registered for.
4. The cancellation applicant’s mark, shown below and registered under No. UK00917972337<sup>1</sup>, was applied for on 24 October 2018. The registration procedure was completed on 15 August 2019 and the mark has a priority date of 31 May 2018.

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<sup>1</sup> Under Article 54 of the Withdrawal Agreement, the Registry created comparable UK trade marks for all rights holders with an existing EUTM. As a result of the opponent’s EUTM being protected as at the end of the Implementation Period, a comparable UK trade mark was automatically created. The comparable UK mark now recorded on the UK trade mark register has the same legal status as if it had been applied for and registered under UK law.

# MR BEAMS

5. The cancellation applicant relies upon the following goods:

Class 11 Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes; Floodlights, spotlights, wall lights; light bulbs; LED light bulbs; lighting fixtures; lighting fixtures with motion detection; battery powered lighting fixtures; electric lighting fixtures, namely, power failure backup safety lighting; sconce lighting fixtures; lanterns for lighting; light switches; lighting controls; lighting systems, namely, led (light emitting diode) modules, power supplies and wiring; lighting apparatus, namely, lighting installations; ceiling lights; ceiling light fittings; electric night lights; LED (light emitting diodes) lighting fixtures for use in display, commercial, industrial, residential, and architectural accent lighting applications; LED lighting fixtures for indoor and outdoor lighting applications; lights for illuminating stairs, doors and other portions of buildings; portable battery-operated lights that can be placed on surfaces where other light sources are unavailable; portable utility lights; solar light fixtures, namely, indoor and outdoor solar powered lighting units and fixtures; spot lights; wall lights; fixtures for incandescent light bulbs; lighting fixtures for use in parking decks and garages; lighting fixtures for use in parking lots and walkways; light diodes; electrical magnifying light fixtures; miniature light bulbs; lighting fixtures that integrate natural daylight and fluorescent lighting into the fixture; lighting for cabinets, pantries, work spaces, sheds, shelving units, and cupboards; power outage lighting systems.

6. The registered proprietor filed submissions on 13 August 2024.

7. The registered proprietor filed evidence, detailed below.
8. The cancellation applicant is represented by Taylor Wessing LLP and the registered proprietor is represented by Hanna IP.
9. A hearing was held before me on Wednesday 20 August 2025. The cancellation applicant was represented by Maxwell Keay of Counsel, instructed by Taylor Wessing LLP, who had filed skeleton arguments prior to the hearing. The registered proprietor was represented by Beth Collett of Counsel, instructed by Hanna IP.

### **Preliminary issue**

10. Originally case OP000433869 had been consolidated with the case before me, but the opposed trade mark UK00003730199 was withdrawn on 10 June 2025 and so there is just the cancellation application to be decided.

### **Evidence**

11. The cancellation applicant's evidence takes the form of a witness statement from John Hanna, Authorised Agent of the registered proprietor, signed and dated 13 August 2024. In support of the witness statement, exhibits JH1 to JH6 were also filed.

### **The law in relation to invalidity**

12. Section 5(2)(b) of the Act has application in invalidation proceedings pursuant to Section 47 of the Act.
13. Section 47 reads as follows:

“47(1) [...]

(2) Subject to subsections (2A) and (2G), the registration of a trade mark may be declared invalid on the ground -

(a) that there is an earlier trade mark in relation to which the conditions set out in section 5(1), (2) or (3) obtain, or

[...]

[...]

(2A) The registration of a trade mark may not be declared invalid on the ground that there is an earlier trade mark unless –

(a) the registration procedure for the earlier trade mark was completed within the period of five years ending with the date of the application for the declaration,

(b) the registration procedure for the earlier trade mark was not completed before that date, or

(c) the use conditions are met.

(2B) The use conditions are met if –

(a) the earlier trade mark has been put to genuine use in the United Kingdom by the proprietor or with their consent in relation to the goods or services for which it is registered-

(i) within the period of 5 years ending with the date of application for the declaration, and

(ii) within the period of 5 years ending with the date of filing of the application for registration of the later trade mark or (where applicable)

the date of the priority claimed in respect of that application where, at that date, the five year period within which the earlier trade mark should have been put to genuine use as provided in section 46(1)(a) has expired, or

(b) it has not been so used, but there are proper reasons for non-use.

(2C) For these purposes –

(a) use of a trade mark includes use in a form (the “variant form”) differing in elements which do not alter the distinctive character of the mark in the form in which it was registered (regardless of whether or not the trade mark in the variant form is also registered in the name of the proprietor), and

(b) use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.

(2D)-(2DA) [Repealed]

(2E) Where an earlier trade mark satisfies the use conditions in respect of some only of the goods or services for which it is registered, it shall be treated for the purposes of this section as if it were registered only in respect of those goods or services.

(2F) Subsection (2A) does not apply where the earlier trade mark is a trade mark within section 6(1)(c)

[...]

(5) Where the grounds of invalidity exist in respect of only some of the goods or services for which the trade mark is registered, the trade mark shall be declared invalid as regards those goods or services only.

(5A) An application for a declaration of invalidity may be filed on the basis of one or more earlier trade marks or other earlier rights provided they all belong to the same proprietor.

(6) Where the registration of a trade mark is declared invalid to any extent, the registration shall to that extent be deemed never to have been made: Provided that this shall not affect transactions past and closed.”

### **Sections 5(2)(b), 5A and 6**

14. Sections 5(2)(b) and 5A of the Act read as follows:

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

(a)...

(b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark.”

“5A Where grounds for refusal of an application for registration of a trade mark exist in respect of only some of the goods or services in respect of which the trade mark is applied for, the application is to be refused in relation to those goods and services only.”

15. An earlier trade mark is defined in section 6 of the Act, the relevant parts of which state:

“(6)(1) In this Act an “earlier trade mark” means –

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

16. The mark relied upon by the cancellation applicant qualifies as an earlier trade mark. It is not subject to proof of use.

### **Section 5(2)(b) – relevant case law**

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

The principles:

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

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

(e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;

(f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

(g) a lesser degree of similarity between the goods or services may be offset by a greater degree of similarity between the marks, and vice versa;

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

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

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

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

## Comparison of the goods

18. When making the comparison, all relevant factors relating to the goods in the specification should be taken into account. In *Canon*, the CJEU stated at paragraph 23 of its judgment:

“In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, inter alia, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary.”

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

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

instance, whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.

20. The General Court (“GC”) confirmed in *Gérard Meric v Office for Harmonisation in the Internal Market (“OHIM”)*, Case T-133/05, that, even if goods are not worded identically, they can still be considered identical if one term falls within the scope of another (or vice versa):

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

21. The competing goods are as follows:

<b>Cancellation applicant’s goods</b>	<b>Registered proprietor’s goods</b>
<p><u>Class 11</u>  Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes; Floodlights, spotlights, wall lights; light bulbs; LED light bulbs: lighting fixtures; lighting fixtures with motion detection; battery powered lighting fixtures; electric lighting fixtures, namely, power failure backup safety lighting; sconce lighting fixtures; lanterns for lighting; light switches; lighting controls; lighting systems, namely, led (light emitting diode)</p>	<p><u>Class 11</u>  Light fittings; Lighting and lighting reflectors; Lighting devices for showcases; Lighting elements; Lighting fixtures; Lighting fixtures for commercial use; Lighting fixtures for household use; Lighting for display purposes; Lights for external installation.</p>

<p>modules, power supplies and wiring; lighting apparatus, namely, lighting installations; ceiling lights; ceiling light fittings; electric night lights; LED (light emitting diodes) lighting fixtures for use in display, commercial, industrial, residential, and architectural accent lighting applications; LED lighting fixtures for indoor and outdoor lighting applications; lights for illuminating stairs, doors and other portions of buildings; portable battery-operated lights that can be placed on surfaces where other light sources are unavailable; portable utility lights; solar light fixtures, namely, indoor and outdoor solar powered lighting units and fixtures; spot lights; wall lights; fixtures for incandescent light bulbs; lighting fixtures for use in parking decks and garages; lighting fixtures for use in parking lots and walkways; light diodes; electrical magnifying light fixtures; miniature light bulbs; lighting fixtures that integrate natural daylight and fluorescent lighting into the fixture; lighting for cabinets, pantries, work spaces, sheds, shelving units, and cupboards; power outage lighting systems.</p>	
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22. The registered proprietor admits at paragraph 10 of its counterstatement that “the goods in Class 11 of the Proprietor’s Mark are highly similar to those covered by the Applicant’s UK trade mark registration.” Before me, Ms Collett confirmed that there is an admission of a high level of similarity.

23. In its skeleton arguments, at paragraph 17, the cancellation applicant argues that the goods are *Meric* identical because “each of the goods covered by the Contested Mark falls within one or more of the following categories in the Earlier Mark:

- (i) “*Apparatus for lighting [...]*”;
- (ii) “*lighting fixtures*”;
- (iii) “*lighting apparatus, namely, lighting installations*”.

24. I agree with the cancellation applicant. The respective goods are *Meric* identical.

### **The average consumer and the nature of the purchasing act**

25. As the case law above indicates, it is necessary for me to determine who the average consumer is for the respective parties’ goods. I must then determine the manner in which the goods are likely to be selected by the average consumer. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J described the average consumer in these terms:

“60. The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person.

The words “average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median.”

26. Before me, Ms Collett elaborated on her skeleton argument that the level of attention paid by the consumer would be above average, saying that it would be slightly more than an average level for domestic consumers and higher than average for commercial users. Before me, Mr Keay said that for the majority of the goods which are purchased by ordinary consumers, there would be an average level of attention. For the goods which are purchased by business customers, the level of attention paid would be slightly more than average.
27. For lighting goods, the average consumer would be an individual member of the public or a business. In either case, the consumer would scrutinise the aesthetic attributes of the lighting as well as its practical functionality. Lighting could be expensive where it is unusual or where it is being purchased in volume, but generally the goods would not be considered to be highly expensive in themselves. Overall, I find that the level of attention paid during the purchasing process would be medium for members of the public and at the beginning of the high range for business customers.
28. The purchase of lighting would initially involve visual considerations when bought online or in a physical shop, but verbal factors would come into play when queries on technical specifications arose.

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

29. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the marks, bearing in mind

their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

“.....it is necessary to ascertain, in each individual case, the overall impression made on the target public by the sign for which registration is sought, by means of, inter alia, an analysis of the components of a sign and of their relative weight in the perception of the target public, and then, in the light of that overall impression and all factors relevant to the circumstances of the case, to assess the likelihood of confusion.”

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

31. The marks at issue are shown below.

The cancellation applicant's mark	The registered proprietor's mark
MR BEAMS	BEAM LIGHTING

#### Overall impression

32. The cancellation applicant's mark is a word mark. The two words form a unit, and the words alone are the only things that contribute to the overall impression made by the mark which resides in the unit as a whole.

33. The registered proprietor's mark consists of the two words "BEAM LIGHTING" there being no other elements in the mark. Each word is no more dominant than the other, although "BEAM" is the more distinctive of the two words.

### Visual comparison

34. Visually, the marks are two and then five letters versus four and then eight letters. Both marks contain the word “BEAM”, albeit the cancellation applicant’s mark begins differently with the two letters “MR” and has the plural “BEAMS” as opposed to the singular “BEAM”. I find the marks to be of medium visual similarity.

### Aural comparison

35. Aurally, the marks are “MISTER BEEMZ” versus “BEEM LITE-ING”, two syllables as opposed to three. I find the marks to be of medium aural similarity.

### Conceptual comparison

#### The parties’ arguments and the registered proprietor’s evidence

36. The cancellation applicant’s arguments are as follows:

“24. Conceptual similarity. BEAM and BEAMS have the same meaning, save for one being the plural of the other. The word LIGHTING in the Contested Mark would be understood as wholly descriptive of the goods in question.

25. The presence of the title MR does not change the meaning of the word BEAMS (cf. O/601/19 *MISS DOPE* [33]-[34], [37]; Decision in Opposition No. B3081305 *MR PLAY*). Although the title MR indicates that BEAMS is the surname of a man, consumers are unlikely to take this literally and think that the mark is referring to a real person named Mr Beams (Beams not being a common or familiar surname).

26. As a result, there is a high level of conceptual similarity between the marks.”

37. The registered proprietor offers evidence of marks that use the title “MR” and can be said to personify those marks such as “Mr Bean, “Mr Muscle”, “Mr Clean” and “Mr Kipling”. However, having offered those marks in evidence, it then goes on to say at paragraph 14 b. of its skeleton arguments that “the signs are similar to a low degree. The concept of adding a male title to the Applicant's Mark, as well as pluralising the ordinary English word BEAMS gives a conceptual impression that the Applicant's Mark is a male name. This is entirely different to the Trade Mark which is a combination of two ordinary English words with a distinctive character created by their combination.”
38. Before me, Mr Keay cautioned that the registered proprietor’s evidence of “MR” marks does not show the extent of use of the marks in question or how these brands are perceived or the reasons for which the brand owner adopted the title “MR”. However, before me, while acknowledging that the registered proprietor’s evidence amounted to state of the register evidence, Ms Collett asked me to take judicial notice of “Mr Clean” and “Mr Muscle” as household names.

#### My analysis

39. I find that “MR BEAMS” gives rise to a concept over and above that of a common or garden male name. While the registered proprietor’s own evidence is wide of the mark in its citation of “Mr Bean”, it is apposite in respect of “Mr Muscle” and “Mr Clean” where I take the surnames in question to be fictional and laudatory or suggestive of the goods for which the marks are registered. I consider that “MR BEAMS” gives rise to the concept of a man whose stock-in-trade is goods that generate beams of light - lighting.
40. “BEAM” in the registered proprietor’s mark in the context of the goods would impart the concept of a beam of light. “LIGHTING” is exactly that – the arrangement of lights in a room or building.

41. Both marks share the fundamental concept of beams, or a beam, of light. However, the cancellation applicant's mark also conveys the idea of a man whose stock-in-trade is lighting, and this concept is absent from the registered proprietor's mark. Overall, I find the respective marks to be conceptually similar to a medium degree.

### **Distinctive character of the earlier mark**

42. In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*, Case C-342/97 the CJEU stated that:

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

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

43. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods or services, to those with high inherent distinctive character, such as invented words which have no allusive qualities.
44. The earlier mark would give rise to the idea of a man whose stock-in-trade was goods that generate beams of light and as such it is suggestive of the goods for which it is registered. I consider the earlier mark to be of relatively low distinctive character.

### **Likelihood of confusion**

45. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other, while indirect confusion is where the average consumer realises the marks are not the same but puts the similarity that exists between the marks and the goods down to the responsible undertakings being the same or related. There is no scientific formula to apply in determining whether there is a likelihood of confusion; rather, it is a global assessment where a number of factors need to be borne in mind. The first is the interdependency principle i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective goods and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the cancellation applicant's trade mark, the average consumer for the goods and the nature of the purchasing process. In doing so, I must be alive to the fact that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them that they have retained in their mind.
46. I have found the parties' marks to be visually, aurally and conceptually similar to a medium degree.

47. I have found the respective goods to be *Meric* identical.
48. I have found the average consumer for the goods to be a member of the public or a business. The level of attention paid during the purchasing process would be medium for members of the public and at the beginning of the high range for business customers.
49. The process would initially involve visual considerations when conducted online or in a physical shop, but verbal factors would come into play when queries on technical specifications arose.
50. I consider the earlier mark to be of relatively low distinctive character.
51. The marks at issue are two and then five letters versus four and then eight letters. Both marks contain the word “BEAM”, albeit the cancellation applicant’s mark begins differently with the two letters “MR” and has the plural “BEAMS” as opposed to the singular “BEAM”.
52. The registered proprietor has said, at paragraph 8 of its counterstatement, that it is settled case law that the beginning of a trade mark typically has a greater impact on consumers than its ending. The cancellation applicant counters, at paragraph 12 of its skeleton arguments, that “There are statements in the EU case law to the effect that this is generally the case (see, for example, *Meric v OHIM*, [51]). But this is no more than a rule of thumb and it remains the case that consumers will not consider a weakly distinctive element forming part of a composite mark to be the distinctive and dominant element of the overall impression conveyed by that mark merely because it comes at the beginning (Case T-80/08 *CureVac GmbH v OHIM*, [49]).”
53. The cancellation applicant goes on to contend, at paragraph 19, that “It has been recognised in previous cases that when a title (such as MISS or MR) is added to a brand name, the title is generally non-distinctive (see O/601/19 *MISS DOPE* [33]-[34], [37]). Further, the cancellation applicant

argues, at paragraph 30, that “The absence of the abbreviation MR in the Contested Mark is also insufficient to negate confusion. The average consumer who keeps an imperfect picture of the marks in his mind and who pays an average level of attention is likely to mistake the Contested Mark for the Earlier Mark.”

54. I disagree with the cancellation applicant. While the title “MR” in the cancellation applicant’s mark could be said to be non-distinctive, “MR BEAMS” forms a unit and the mark will be recognised by the average consumer as one that personifies a man whose stock-in-trade is alluded to as lighting. This difference – a mark that personifies the goods being traded versus a mark that alludes to the goods in general terms – is noteworthy. Furthermore, the allusion in the cancellation applicant’s mark is in the plural, whereas it is in the singular in the registered proprietor’s mark. On this basis, and notwithstanding the possibility that the word “LIGHTING” in the registered proprietor’s mark may be overlooked as descriptive of the goods, there is no likelihood of direct confusion.
55. I will also consider indirect confusion. Indirect confusion was described in the following terms by Iain Purvis QC (as he then was), sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc.*<sup>2</sup>

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

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<sup>2</sup> BL O/375/10

different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark’.

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

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

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

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

56. In *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 1207, Arnold LJ referred to the comments of James Mellor QC (as he then was), sitting as the Appointed Person in *Cheeky Italian Ltd v Sutaria* (O/219/16), where he said at [16] that “a finding of a likelihood of indirect confusion is not a consolation prize for those who fail to establish a likelihood of direct confusion”. Arnold LJ agreed, pointing out that there must be a “proper basis” for concluding that there is a likelihood of indirect confusion where there is no likelihood of direct confusion.

57. At paragraph 31 of its skeleton arguments, the cancellation applicant says “Even if a consumer identifies the absence of the abbreviation MR in the Contested Mark as a difference between the marks, they are likely to believe that the goods denoted by the two marks come from the same trade source. It is entirely commonplace for the title MR to be dropped when referring to a man’s name. The consumer encountering the Contested Mark would merely assume that the title MR has been dropped, which is a natural and logical brand extension (cf. O/601/19 *MISS DOPE* [33]-[34], [37]).”

58. In the *MISS DOPE* case, at paragraph 36, the Appointed Person held that the usual multi-factorial analysis would **not** result in there being a likelihood of direct confusion “in terms of the average consumer confusing DOPE with MISS DOPE”. However, at paragraph 37 the Appointed Person said “It is well established that sub-brands are commonly used for clothing ranges, and MISS X is a natural and, in my view, logical, brand extension of X. The Applicant’s Mark is also more likely to be taken as a brand extension of DOPE because the two brands are for identical goods, in each case clothing.”

59. it is perfectly understandable to see such a brand extension in the context of clothing, for example a clothing range directed at men using the title “MR”. However, while the title “MR” could be said to be non-distinctive and hence the mark “MR BEAMS” could fit criterion (b) of the Purvis criteria, I can see no such logic in “MR BEAMS” as a brand extension of “BEAM LIGHTING”. A brand extension for lighting in general would draw attention to a particular aspect of lighting and that is not the case here. Furthermore, the presence of singular versus plural in “BEAM” and “BEAMS” jars.

60. I find that there is no likelihood of indirect confusion in this case.

## **CONCLUSION**

61. The cancellation application has failed in its entirety and the registered proprietor’s mark will remain registered.

## **COSTS**

62. As the successful party, and in line with Tribunal Practice Notice 1 of 2023, I award the registered proprietor costs as follows:

Preparing a statement and considering the other side's statement:	£250
Preparing evidence:	£600
Preparing for and attending a hearing:	£750
<b>Total:</b>	<b>£1600</b>

63. I order Amazon Technologies, Inc. to pay Eurocables (Belfast) Limited £1600. This sum is to be paid within twenty-one days of the expiry of the appeal period or within twenty-one days of the final determination of this case if any appeal against this decision is unsuccessful.

**Dated this 5<sup>th</sup> day of January 2026**

**JOHN WILLIAMS**

**For the Registrar**