

O/0014/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00004050536

BY NAMEER SUHAIL MUSA KHOURI

TO REGISTER:



BASE CØFFEE

AS A TRADE MARK IN CLASS 43

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NO. 450521

BY JAN ROZANKA

BACKGROUND AND PLEADINGS

1. On 13 May 2024, Nameer Suhail Musa Khouri (“the applicant”) applied to register the trade mark on the cover page of this decision in the UK. The application was published for opposition purposes on 2 August 2024. The applicant seeks registration for *services for providing food and drink; temporary accommodation; restaurants; coffee houses; cafes and catering services* in class 43.
2. On 1 November 2024, the application was opposed by Jan Rozanka (“the opponent”). The opposition is brought under section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). The opponent relies on the following trade mark:

BASECOFFEE

UKTM No. 918037741¹

Filing date: 19 March 2019

Registration date: 14 August 2019

Relying on *Coffee; Processed grains, starches, and goods made thereof, baking preparations and yeasts; Ice, ice creams, frozen yogurts and sorbets* in class 30.

3. The trade mark upon which the opponent relies qualifies as an earlier trade mark pursuant to section 6 of the Act. As the earlier mark had not completed its registration process more than 5 years before the filing date of the application in issue, it is not subject to the use provisions in section 6A of the Act. The opponent can, therefore, rely upon all of the goods identified in the specification.
4. The opponent claims that the marks at issue are similar and that the services at issue are similar. As such, it is claimed that there exists a likelihood of confusion between the marks.

¹ The opponent’s mark was initially registered at the European Union Intellectual Property Office (EUIPO). On 1 January 2021, the UK left the EU. Under Article 54 of the Withdrawal Agreement between the UK and the EU, the UK IPO created comparable UK trade marks for all right holders with an existing EUTM. As a result, at the end of the Implementation Period, the opponent’s mark was automatically converted to a comparable UK trade mark. The comparable UK mark is now recorded on the UK trade mark register and has the same legal status as if it had been applied for and registered under UK law, and the original filing date remains.

5. The applicant filed a counterstatement denying the claims made.
6. The opponent is represented by Brand Protect Limited, and the applicant is represented by Beck Greener LLP. Neither party filed evidence. No hearing was requested and neither party filed written submissions in lieu of the same. This decision is taken after careful consideration of the papers.
7. The provisions of the Act relied upon in these proceedings are assimilated law, as they are derived from EU law. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 (as amended by Schedule 2 of the Retained EU Law (Revocation and Reform) Act 2023) requires tribunals applying assimilated law to follow assimilated EU case law. That is why this decision refers to decisions of the EU courts which predate the UK's withdrawal from the EU.

DECISION

Sections 5(2): legislation and case law

8. Section 5(2) of the Act read as follows:

“(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.”

9. The following principles are gleaned from the decisions of the Court of Justice of the European Union (“CJEU”) 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 Office for Harmonization in the Internal Market (Trade Marks and Designs) ("OHIM")*, Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C-120/04, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P and *Bimbo SA v OHIM*, Case C-591/12P.

- (a) The likelihood of confusion must be appreciated globally, taking account of all relevant factors;
- (b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;
- (c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;
- (d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;
- (e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;
- (f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive

role in a composite mark, without necessarily constituting a dominant element of that mark;

- (g) a lesser degree of similarity between the goods or services may be offset by a great degree of similarity between the marks, and vice versa;
- (h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has been made of it;
- (i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;
- (j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense;
- (k) if the association between the marks creates a risk that the public might believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

Comparison of goods and services

10. When making the comparison, all relevant factors relating to the goods and services in the specifications should be taken into account. In the judgment of the CJEU in *Canon*, Case C-39/97, the court stated at paragraph 23 that:

“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”.

11. The relevant factors identified by Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, for assessing similarity were:

- (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.

12. Complementary means “there is a close connection between them, in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods lies with the same undertaking”.² Complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity,³ and it can be clearly distinguished from ‘use in combination’ – the latter being where goods/services are merely used together, whether by choice or convenience (e.g. bread and butter; or wine and wine glasses),⁴ this means that they are not essential for each other.

13. The goods and services to be compared are as follows:

Opponent’s goods	Applicant’s services
Class 30: Coffee; Processed grains, starches, and goods made thereof, baking preparations and yeasts; Ice,	Class 43: Services for providing food and drink; temporary accommodation; restaurants; coffee houses; cafes; catering services.

² *Boston Scientific Ltd v OHIM*, Case T-325/06, paragraph 82

³ *Kurt Hesse v OHIM*, Case C-50/15 P

⁴ As Mr Daniel Alexander Q.C. noted as the Appointed Person in *Sandra Amalia Mary Elliot v LRC Products Limited*, BL O/255/13 - “It may well be the case that wine glasses are almost always used with wine – and are, on any normal view, complementary in that sense - but it does not follow that wine and glassware are similar goods for trade mark purposes.”

ice creams, frozen yogurts and sorbets.	
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14. I first compare the applicant's *coffee houses* and *cafes* to the opponent's *coffee*. Goods are intrinsically different in nature to services, and they are used in different ways. However, *coffee houses* and *cafes* are focussed on the consumption of beverages for sustenance or enjoyment such as coffee so I consider the goods and services have a shared purpose. There would be an overlap in user and trade channels as it is not uncommon for *cafes* and *coffee houses* to sell bags of coffee for customers to purchase and consume at home. I also find the goods and services share a competitive element because consumers wishing to have a coffee may decide to purchase and make the beverage themselves or alternatively, visit a *cafe* or *coffee house*. Whilst the opponent's goods are indispensable for *coffee houses and cafes*, I do not consider that consumers would believe that the goods and services are derived from the same undertaking, as such, they are not complementary. Overall, I find there to be a medium to high degree of similarity.
15. In considering *services for providing food and drink* and *restaurants*, my reasoning above also applies here. Whilst the nature of the services is different to the opponent's goods, they still have a shared purpose and are focussed on the consumption of food and drink. Users and trade channels would overlap, and the goods and services enjoy a competitive relationship. For the same reasoning above, I do not find the goods and services share a complementary relationship. Overall, I find there to be a medium to high degree of similarity.
16. *Catering services* are services provided at locations of the consumer's choice and would include the provision of drinks such as *coffee*, as well as food and snacks. I therefore find that there is a degree of similarity of purpose between *catering services* and the opponent's goods and a degree of competition. For example, a person organising a business meeting might sometimes purchase coffees themselves from a vendor or, alternatively, arrange for coffee and other refreshments to be provided by a caterer. Whilst the opponent's goods are

indispensable for *catering services*, I do not consider that consumers would believe that the goods and services are derived from the same undertaking, as such, they are not complementary. Overall, I find there to be a medium degree of similarity.

17. The opponent's class 30 goods are intended for eating or drinking, whereas *temporary accommodation* is a service providing lodging. Their respective purposes differ significantly. The methods of use are distinct, and although both may be directed at the general public, the trade channels differ; food and drink products are sold through retail outlets and online grocery platforms, while accommodation services are accessed via booking systems or directly at premises. They are not competitive, nor are they complementary in the sense defined by case law; the opponent's goods may be offered within hotels, but they are not indispensable to the provision of accommodation, and consumers would not assume a common commercial origin. Accordingly, I find that the goods and services are dissimilar. It follows that the opposition must fail in relation to *temporary accommodation*.⁵

The average consumer and the purchasing act

18. The case law, as set out earlier, requires that I determine who the average consumer is for the respective parties' goods and services. I must then decide the manner in which these goods and services are likely to be selected by the average consumer in the course of trade. 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

⁵ *eSure Insurance Limited v Direct Line Insurance Plc* [2008] EWCA Civ 842 CA, paragraph 49.

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.”

19. The goods and services at issue are those that will be selected predominantly by members of the general public. However, in some cases they will also consist of professionals purchasing on behalf of a business undertaking. The goods at issue will be available via general retailers and their online equivalents or via food/drink establishments such as restaurants and cafes. In stores, the goods will be displayed on shelves where they will be self-selected by the consumer. A similar approach will apply to goods selected online as the consumer will select them after having seen an image of them on a website. In food/drink establishments, the goods are likely to be selected aurally but this will take place after a visual inspection of the goods either in display cabinets, on menus or lists displayed behind a counter. As for the services, these will be selected after the consumer has viewed signage on the high street, promotional materials, after undertaking internet searches or via word-of-mouth recommendations. In my view, the selection process for both the goods and the services at issue will be primarily visual but I do not discount an aural component playing a role for the reasons set out above.

20. The goods and services will be selected on a frequent basis and will vary in cost but not be prohibitively expensive. The same can be said for the services in that a cafe may be cheap but a high-end restaurant will be expensive. Regardless of the costs of the goods/services the factors that the consumer considers will be relatively ordinary. For the selection of the goods, this will involve considerations as to flavour, ingredients and nutritional content. For the services, the consumer will consider factors such as selection of food/drink offered, dietary requirements, reviews and hygiene ratings. Such factors lead me to conclude that the selection process for the goods and services will attract a no more than a medium degree of attention. In respect of professional consumers, the level of attention may be slightly elevated, and those consumers would pay a medium degree of attention.

Comparison of the marks


21. It is clear from *Sabel v Puma AG* (particularly paragraph 23) that the average consumer normally perceives a trade 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 trade marks must be assessed by reference to the overall impressions created by the trade marks, bearing in mind their distinctive and dominant components.

22. 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.”

23. 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.

24. The respective trade marks are shown below:

The opponent's mark	The applicant's mark
BASECOFFEE	 BASE CØFFEE

Overall impression

25. The opponent's earlier mark consists of two conjoined words 'BASECOFFEE' presented in a standard upper-case font. Whilst I note the applicant's assertions that the average consumer would perceive the opponent's mark as a single word without any space between the terms 'base' and 'coffee',⁶ I consider that consumers would still perceive the mark as the words 'base' and 'coffee' conjoined as they will break the mark down into verbal elements that resemble words which are known to them.⁷ To my mind, the 'BASE' element has more impact as it is the first component of the conjoined word and, as a general rule, beginnings of marks generally tend to have greater visual impact.⁸ The word 'COFFEE' is descriptive of some of the goods covered by the earlier mark or it could be suggestive of the flavour/ingredients used in the goods however, the overall impression lies in the mark as a whole.

26. The applicant's mark is a composite mark consisting of both word and figurative elements. The figurative element is prominent in size and consists of a bold rectangular outline. Inside the outline is a diagonal line running from the bottom left to the top right. To the right of the rectangular shape are the words 'BASE COFFEE' in a standard upper-case font. The rectangular figurative device in the word COFFEE will be perceived as a highly stylised replacement for the letter "O". The applicant submits that the figurative element is highly distinctive and would dominate the overall impression of the applicant's mark, particularly in view of the low distinctiveness of the word element.⁹ I remind myself that the GC held in *Wassen International Ltd v OHIM (SELENIUM-ACE)*, Case T-312/03, that verbal elements should in principle be held to be more distinctive than figurative elements of a mark, as the average consumer will more easily refer to the origin of the (goods and) services by the words than by describing a device.¹⁰ I therefore disagree with the applicant's assertions and find that the wording 'BASE COFFEE' makes the greatest contribution to the overall impression of the mark.

⁶ Paragraph 8 of the applicant's counterstatement.

⁷ See *Usinor SA v OHIM*, Case T-189/05, para 62

⁸ *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02

⁹ Paragraph 9 of the applicant's counterstatement.

¹⁰ At paragraph 37.

Moreover, I do not find the figurative element to be highly distinctive as it is merely a standard geometric shape with a line dissecting it. Notwithstanding the large size of the device and the fact that beginnings of marks generally tend to have greater visual impact, the device plays a smaller role in the overall impression.

Visual comparison

27. Visually, the marks both contain the identical wording 'BASE COFFEE', however, I note that these two words are conjoined in the opponent's mark. The marks differ by way of the figurative device present in the applicant's mark; this has no counterpart in the opponent's mark. I also note the stylisation of the letter 'O' in the applicant's mark which also creates a point of visual difference. Taking into account my earlier findings regarding the marks' overall impressions, I find that the marks have a high degree of visual similarity.

Aural comparison

28. Both marks contain the standard dictionary-defined words 'BASE' and 'COFFEE'. These words will be pronounced in the usual way, rendering the marks aurally identical. I note that the applicant also agrees on this point.

Conceptual comparison

29. As set out above, the opponent's mark will be viewed as two conjoined words. It is from these words that the concept of the mark will derive. The first word, being 'BASE' will be understood as an ordinary dictionary word with well-known meanings, albeit in different contexts i.e. *the bottom or supporting part of anything, a centre of operations, organization, or supply or anything from which a process, as of measurement, action, or thought, is or may be begun; starting point* for example.¹¹ As for 'COFFEE', this will again be perceived as a well-known dictionary word which means *a drink consisting of an infusion of the roasted and*

¹¹ <https://www.collinsdictionary.com/dictionary/english/base>

ground or crushed seeds of the coffee tree.¹² When viewed in combination, the applicant submits that the opponent's mark will be understood as a place from which coffee products or services can be acquired. Whilst I do not discount this argument entirely, I am of the view that for a significant proportion of consumers, the opponent's mark will not form any obvious meaning outside of the individual meanings of the words themselves.

30. The applicant's mark also comprises the wording 'BASE' and 'COFFEE'. Therefore, whichever way it is perceived by consumers, it will carry the same meaning as the opponent's mark. The rectangular element does not carry any conceptual meaning, nor have the parties submitted that it carries any discernible meaning. Consequently, I find the marks to be conceptually identical.

Distinctive character of the earlier mark

31. 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

¹² <https://www.collinsdictionary.com/dictionary/english/coffee>

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).”

32. 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. The distinctiveness of a mark can be enhanced by virtue of the use that has been made of it.

33. The opponent has not pleaded that its mark has obtained an enhanced level of distinctiveness, nor has it filed any evidence to that effect. Therefore, I have only the inherent position to consider.

34. As previously discussed in the conceptual comparison, the average consumer will perceive the word mark ‘BASECOFFEE’ as two conjoined words ‘BASE’ and ‘COFFEE’. For a significant proportion of consumers, the opponent’s mark will not form any obvious meaning outside of the individual meanings of the words themselves.

35. The word ‘COFFEE’ is descriptive of *coffee* covered by the specification. While it is not directly descriptive of the remaining goods, it may evoke a flavour or ingredient used in those goods. The word ‘BASE’ is an ordinary English word that does not describe or allude to any characteristic of the goods. Taken as a whole, I consider the mark to have a low to medium degree of inherent distinctiveness.

Likelihood of confusion

36. 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 and services 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 services and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the earlier mark, the average consumer for the goods and services 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 he or she has retained in their mind.

37. I also bear in mind remind myself that weak distinctive character of the earlier trade mark does not preclude a likelihood of confusion.¹³

38. I have found the goods and services at issue to have between a medium and high degree of similarity. I have found the average consumer will comprise of members of the general public and who will pay no more than a medium degree of attention during the purchasing process and professionals purchasing on behalf of a business undertaking who will pay a medium degree of attention. I found for both consumer groups, the services would be selected primarily by visual means, although I did not discount an aural aspect to the purchasing process. I have found the marks to be visually similar to a high degree and aurally and conceptually identical. I have found the earlier mark to hold a low to medium degree of inherent distinctiveness.

39. Having regard to the guidance referred to above, I consider the differences between the marks to be insufficient to avoid them being mistakenly recalled as each other. I make this finding considering that the word elements of the respective marks are identical and the lack of spacing between the words in the earlier mark may go unnoticed. Whilst I note the differences between the marks

¹³ *L'Oréal SA v OHIM*, Case C-235/05 P

by way of the figurative element and stylisation of the letter 'O' in the applicant's mark, I remind myself that I found the figurative element in the applicant's mark to be fairly unremarkable. Taking these factors into account alongside the interdependency principle, I find the average consumer, even when paying a medium degree of attention, may not recall the differences between the marks and as such, there is a likelihood of direct confusion.

40. I will proceed to consider a likelihood of indirect confusion. I am reminded of the case of *L.A. Sugar Limited v By Back Beat Inc*, Case BL O/375/10, wherein Mr Iain Purvis Q.C., as the Appointed Person, explained that:

"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 recognized 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 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)".

41. These examples are not exhaustive but provide helpful focus.

42. It is my view that if consumers had previously come across the 'BASECOFFEE' word mark and subsequently came across the applicant's mark (or vice versa) and noticed the differences between these marks by way of the spacing between the wording 'BASE' and 'COFFEE' and the figurative elements, they will regard these differences as a logical brand extension or indicative of rebranding. Further, I consider that it is not uncommon for undertakings to re-brand themselves from time to time to accommodate changes in marketing considerations. Consequently, I consider there to be a likelihood of indirect confusion.

CONCLUSION

43. The opposition under section 5(2)(b) is partially successful. Subject to any appeal against this decision, the application shall be refused protection in the UK for the following services:

Class 43: Services for providing food and drink; restaurants; coffee houses; cafes; catering services.

44. The application shall proceed to registration in respect of the services that I have found to be dissimilar, namely *temporary accommodation*.

COSTS

45. Both parties have achieved a level of success but the opponent significantly more-so than the applicant. The opponent has been successful and is entitled to a contribution towards its costs. Awards of costs in proceedings commenced on or after 1 February 2023 are governed by Annex A of Tribunal Practice Notice ('TPN') 1 of 2023. Using the TPN as a guide, I award costs to the opponent on the following basis including a 10% reduction on costs to account for the applicant's partial success:

Official fee:	£100
Preparing a statement and considering the other side's statement:	£300
Total including 10% reduction:	£360

46. I therefore order Nameer Suhail Musa Khouri to pay Jan Rozanka the sum of £360. The above sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 13th day of January 2026

Catrin Williams
For the Registrar