BL O/0224/26

IN THE MATTER OF THE TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. WO0000001743964 DESIGNATING THE UK FOR THE FOLLOWING TRADE MARK IN CLASS 33 IN THE NAME OF MINUTY SAS

JEANNE

Château Minuty

AND IN THE MATTER OF OPPOSITION NO. OP000446015 BY DOMAINE DES JEANNE LTD

AND IN THE MATTER OF AN APPEAL FROM THE DECISION OF ANDREA ROSSI (O/1190/25) DATED 19 DECEMBER 2025

DECISION

Introduction

1. This is an appeal by Minuty SAS (the "**Applicant/Appellant**") from the decision of the Hearing Officer, Mr Andrea Rossi, dated 19 December 2025 with number O/1190/25. The decision concerns the opposition by Domaines des Jeanne Ltd (the "**Opponent/Respondent**") to the Applicant's designation of the United Kingdom as a territory for the international trade mark depicted below with number WO0000001743964 in class 33 (the "**Application**"):

JEANNE

Château Minuty

Background

2. The Application has a priority date of 5 December 2022, was filed on 1 June 2023 and published for opposition purposes on 24 November 2023.

3. On 23 February 2024, the Opponent opposed the Application for all goods under section 5(2)(b) of the Trade Marks Act 1994 (the "**Act**"), relying on its earlier trade marks depicted below with numbers UK00003195818, UK00003195815 and UK00003195821 for certain goods in class 33 (together the "**Earlier Marks**"):

Trade Mark No	Trade Mark	Definition
UK00003195818	JEANNE	The First Earlier Mark
UK00003195815	DOMAINE DES JEANNE	The Second Earlier Mark
UK00003195821	DES DOMAINE JEANNE	The Third Earlier Mark

4. The Applicant filed a counterstatement requiring the Opponent to demonstrate genuine commercial use of the Earlier Marks and denying the claims. Following exchange of evidence, a hearing took place before the Hearing Officer on 3 December 2025. The Applicant's representative attended said hearing, while the Opponent relied on written submissions in lieu.

5. On 19 December 2025, the Hearing Officer held that the opposition based on the Third Earlier Mark (only) had succeeded, and the Application should be refused for all goods (the

"**Decision**"). He ordered that the Applicant pay the Opponent the sum of £1,300 by way of contribution to the Opponent's costs.

6. On 16 January 2026, the Applicant filed a Notice of Appeal to the Appointed Person against the Decision under section 76 of the Act. The Opponent filed a Respondent's Notice on 10 February 2026. Following written submissions, the appeal was heard on 6 March 2026. Both parties' representatives attended the hearing.

Hearing Officer's Decision

7. Addressing the Applicant's request that the Opponent demonstrate genuine commercial use of the Earlier Marks, the Hearing Officer concluded that there was insufficient evidence to show genuine commercial use of the First Earlier Mark, but that there was sufficient evidence in relation to the Second and Third Earlier Marks (see [37], [40], [41] and [57] of the Decision). He further concluded that a fair specification for the Second and Third Earlier Marks would be as follows (see [65] of the Decision):

Class 33	Still wine; Wine; Wines; Red wine; White Wine; White wines; Sparkling wines; Sparkling wine; Sparkling red wines; Sparkling white wines; Grape wine; Natural sparkling wines; Naturally sparkling wines; Sparkling grape win; Table wines; Rose wines.

8. Applying s. 5(2)(b) of the Act and the global appreciation test, the Hearing Officer made the following findings:

   a. He identified the average consumer for the goods to be "a member of the general public (who is over the age of 18) as well as businesses that purchase the goods for retail purposes." He further found that "[t]he goods will be relatively low cost and reasonably frequent purchases. However, the average consumer is likely to take factors such as flavour, alcohol content and quality into account when purchasing the goods." Summarising the average consumer, he held that he/she "will pay a medium (or average) degree of attention whereas a higher (although not the highest) level of attention will be paid by the professional users". He explained that the "likelihood of confusion must be assessed from the perspective of the former (the general public) since they are the group who will pay the lower degree of attention" (see [81] of the Decision);

   b. He concluded that the Second and Third Earlier Marks possessed a medium degree inherent distinctive character, but that neither enjoyed an enhanced distinctive character (see [105], [106] and [107] of the Decision);

   c. Of the Second Earlier Mark, he held that "each word retains an independent distinctive role being equally dominant in the mark and equally contributing to the overall impression" (see [87] of the Decision);

   d. Of the Third Earlier Mark, he concluded that "'JEANNE' is the dominant and most distinctive element of the mark given its size and position" (see [89] of the Decision);

   e. Addressing the Opponent's contention that JEANNE is the dominant element of the Application and the Applicant's contention that MINUTY was the dominant and most

distinctive element because of its enhanced distinctive character (as to which see paragraph 10 below), he held at [91]:

> "Nonetheless, even admitting that 'MINUTY' has an enhanced distinctive character in the [Application], this does not reduce the distinctiveness of 'JEANNE' that not only it occupies a dominant position in the mark, but it also contributes to the mark's overall impression."

f. Assessing the visual, aural and conceptual similarity of the Second Earlier Mark and the Application, he held this to be low, low and medium respectively (see [93], [94] and [97] of the Decision);

g. With regard to the visual, aural and conceptual similarity of the Third Earlier Mark and the Application, he found this to be medium, low and medium respectively (see [100], [101] and [102] of the Decision);

h. Comparing the goods for which the Second and Third Earlier Marks were registered with those for the Application, he concluded that they were identical (see [76] of the Decision);

i. All together, he concluded that there was no likelihood of direct confusion between the Second or Third Earlier Mark and the Application (see [112] and [113] of the Decision) and, while there was no likelihood of indirect confusion between the Second Earlier Mark and the Application, there was a likelihood of indirect confusion between the Third Earlier Mark and the Application (see [116] and [117] of the Decision).

9. It followed that the opposition was successful in relation to the Third Earlier Mark and the Application was refused for all goods.

Enhanced Distinctiveness of MINUTY

10. Elaborating on paragraph 8.e above, during the course of proceedings, the Applicant adduced evidence in support of the enhanced distinctive character of MINUTY. Further, the Applicant relied on decision O/0660/25 where the Hearing Officer, S Wilson, found that the evidence in those proceedings showed that MINUTY had an enhanced distinctive character to a very high degree. This becomes relevant to the issues on appeal.

Grounds of Appeal

11. The Applicant contends that the Hearing Officer reached conclusions in the Decision which no reasonable tribunal could have reached on the facts (see [6] of the Grounds of Appeal).

12. In particular, the Applicant says that the Hearing Officer made material errors in his assessment of the overall impression of the Application with particular reference to the distinctiveness of JEANNE and the distinctiveness of MINUTY in the Application. It submits that this subsequently affected the Hearing Officer's conclusion under s. 5(2)(b) of the Act and that the Hearing Officer should have concluded there was no likelihood of indirect confusion between the Third Earlier Mark and the Application (see [4] and [5] of the Grounds of Appeal).

Standard of Review

13. The principles to be applied to an appeal are well established and were not contested. They were summarised by Joanna Smith J in *Axogen Corp v. AVIV Scientific Ltd* [2022] EWHC 95 (Ch) at [24]. The Appellant also drew my attention to Les Grands Chais de France SAS v Consorzio di Tutela della Denominazione di Origine Controllata Prosecco [2020] EWHC 1633 (Ch) at [36]. Further guidance has also been given by the Supreme Court in in *Iconix Luxembourg Holdings SARL v. Dream Paris Europe Inc* [2025] UKSC 25 at [93] to [95] as follows:

> "94. It is perhaps obvious, and certainly an inevitable conclusion drawn from experience, that reasonable minds, and in particular reasonable judicially trained minds, each faithfully applying the relevant law and principles, will come to different conclusions about the answer to these multifactorial questions. While of course the decision of an appellate court trumps that of the court below, the law has imposed structured constraints designed to prevent a free for all in a higher court whenever a party (with the necessary resources) wishes to challenge the first instance decision of the trial judge. The reasons for these constraints are set out in a string of well-known authorities including, in the intellectual property context, Fage UK Ltd v Chobani UK Ltd [2014] EWCA Civ 5; [2014] FSR 29, per Lewison LJ at para 114. The reasons there set out relevantly include the following:
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> (i) The trial is not a dress rehearsal. It is the first and last night of the show.
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> (ii) Duplication of the trial judge's role on appeal is a disproportionate use of the limited resources of an appellate court.
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> (iii) In making his decisions the trial judge will have regard to the whole of the sea of evidence presented to him, whereas an appellate court will only be island hopping.
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> 95. In Lifestyle Equities CV v Amazon UK Services Ltd [2024] UKSC 8; [2024] Bus LR 532 this court reviewed those constraints in a trade mark context. After citing from the Fage case this court in a joint judgment said, at paras 49- 50:
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> '49. That does not, however, mean the appeal court is powerless to intervene where the judge has fallen into error in arriving at an evaluative decision such as whether an activity was or was not targeted at a particular territory. It may be possible to establish that the judge was plainly wrong or that there has been a significant error of principle; but the circumstances in which an effective challenge may be mounted to an evaluative decision are not limited to such cases. Many of the important authorities in this area were reviewed by the Court of Appeal in re Sprintroom Ltd [2019] 2 BCLC 617, paras 72–76. There, in a judgment to which all members of the court (McCombe, Leggatt and Rose LJJ) contributed, the court concluded, at para 76, in terms with which we agree, that on a challenge to an evaluative decision of a first instance judge, the appeal court does not carry out the balancing exercise afresh but must ask whether the decision of the judge was wrong by reason of

an identifiable flaw in the judge's treatment of the question to be decided, such as a gap in logic, a lack of consistency, or a failure to take into account some material factor, which undermines the cogency of the conclusion.

50. On the other hand, it is equally clear that, for the decision to be 'wrong' under CPR r 52.21(3), it is not enough to show, without more, that the appellate court might have arrived at a different evaluation.'"

14. Further, the Court of Appeal in *Unik Bond SA v. Catbalogan Holdings Sarl* [2025] EWCA Civ 1594 has given the following guidance to the way appellate courts should approach the writing of judgments:

> "59. In *Re Portsmouth City Football Club Ltd (in liquidation)* [2013] EWCA Civ 916, [2013] Bus LR 1152 Mummery LJ (with whom Rimer and Underhill LJJ agreed) posed the question at [36]:
>
> "What sensible purpose could be served by this court repeating in its judgments detailed discussions of every point raised in the grounds of appeal and the skeleton arguments when they have already been dealt with correctly and in detail in the judgment under appeal? No purpose at all, in my view."
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> 60. He continued at [38]:
>
> "The proper administration of justice does not require this court to create work for itself, for other judges, for practitioners and for the public by producing yet another long and complicated judgment only to repeat what has already been fully explained in a sound judgment under appeal. If the judgment in the court below is correct, this court can legitimately adopt and affirm it without any obligation to say the same things over again in different words. The losing party will be told exactly why the appeal was dismissed: there was nothing wrong with the decision appealed or the reasons for it."

15. I have kept the above principles in mind when considering this appeal.

Review

16. In support of its grounds of appeal, the Applicant makes 10 or so submissions which can be categorised as follows:

    a. Distinctiveness of JEANNE: The Applicant noted that the evidence before the Hearing Officer was that JEANNE in the Earlier Marks is a reference to name of the wife of Lord Evan Meryvn Davies (Joint Founder of the Opponent) and in the Application is a reference to the grandmother of Mr Francois Matton (the General Director of the Applicant) (see [10] and [11] of the Grounds of Appeal). While the Applicant accepted that "JEANNE does not have a semantic correlation with wines", it submitted that this evidence "indicates that the average consumer would be accustomed to perceiving family names in connection with wine" (see [16] of the Grounds of Appeal). The Applicant also relied on the Hearing Officer's conclusion that the Opponent had provided insufficient evidence to show genuine commercial use of the First Earlier Mark, namely JEANNE alone. The Applicant submitted that there was no further

evidence to support the Hearing Officer's finding of the degree of distinctiveness of JEANNE in the Third Earlier Mark and the Application (see [12] and [13] of the Grounds of Appeal);

b. Distinctiveness of MINUTY: The Applicant accepted that JEANNE was the dominant element of the Application, but submitted that a distinction should be drawn between dominance and distinctiveness (see [13] of the Grounds of Appeal). Further, the Applicant submitted that the Hearing Officer's conclusion that "consumers will read 'chateau Minuty' as a unity with 'chateau' having a descriptive or lowly-distinctive character" was inconsistent with MINUTY having enhanced distinctive character (see [14] and [15] of the Grounds of Appeal). Rather, it submitted that given the enhanced distinctiveness of MINUTY in the Application, "the average consumer is highly likely to distinguish the respective marks event with a finding that JEANNE is visually dominant … MINUTY continues to be the indicator of origin" (see [17] of the Grounds of Appeal).

Distinctiveness of JEANNE

17. Taking the various submissions at paragraph 16.a above together, these amount to a challenge of the Hearing Officer's factual findings and the weight to be given to the various elements when assessing the overall impression of the Earlier Marks and the Application. I can only interfere with those findings if they are rationally insupportable.

18. The Hearing Officer concluded (at [91] of his Decision) that "'JEANNE as it will be perceived by the consumers as indicating the name of a woman, it [sic] does not have any semantic correlation with the goods at hand (wines) and, therefore, it possesses at least a medium degree of distinctive character." In my view, this is entirely rational.

19. First, as the Applicant acknowledges, JEANNE is the dominant element of both the Third Earlier Mark and the Application.

20. Second, as the Applicant acknowledges in its skeleton argument before the Hearing Officer, JEANNE alone has at least a minimum degree of inherent distinctiveness. Indeed, the First Earlier Mark is for JEANNE alone. In accordance with *Formula One Licensing v. OHMI* Case C 196/11 P, as a valid trade mark, it is presumed to have a minimum degree of inherent distinctiveness. The Applicant's submission that the Opponent was unable to show sufficient evidence of genuine commercial use of the First Earlier Mark has no direct bearing on this: whether a mark has inherent distinctiveness does not turn on whether there has been sufficient genuine commercial use of the mark.

21. Third, as the Applicant acknowledges, JEANNE has no semantic correlation with wines. As such, it is likely to enjoy at least a medium degree of distinctive character. It does not follow (as the Applicant submits) that, because JEANNE was the name of a person within the Applicant and Opponent's organisations, the average consumer "would be accustomed to perceiving family names in connection with wine". Should the Applicant wished to have established this, much more evidence of the use of family names in connection with wine would have been required.

Distinctiveness of MINUTY

22. In support of the various submissions at paragraph 16.b above, the Applicant focusses on the following extracts of paragraphs 91 and 92 of the Decision:

> "91. … I am not bound by previous decisions of the Tribunal. In any case, even taking into consideration this precedent decision, I find that it is not on all fours with the case at hand because the evidence, both referred to in decision number O/0660/25 and resubmitted in the proceedings at hand, exclusively refers to the standalone mark 'MINUTY' or 'Chateau Minuty' whereas, in the case at hand, the [Application] comprises the additional element 'JEANNE', placed in a dominant position in the mark …
>
> Whilst I agree that consumers will understand 'Chateau' as indicating an 'estate' or 'vineyard', I do not find that they will understand 'Minuty' as indicating a place, but rather, the name of the estate/vineyard. Therefore, consumers will read 'chateau Minuty' as a unity with 'chateau' having a descriptive or lowly-distinctive character. I disagree with the [Applicant's] submission that 'JEANNE' has a lower distinctiveness simply because it originates from a name. To this regard, I find that 'JEANNE' as it will be perceived by the consumers as indicating the name of a woman, it does not have any semantic correlation with the goods at hand (wines) and, therefore, it possesses at least a medium degree of distinctive character.
>
> 92. Overall, 'JEANNE' is the most dominant element in the [Application], and it possesses at least a medium degree of distinctive character …"

23. The Applicant says that this text demonstrates that the Hearing Officer found that MINUTY enjoyed enhanced distinctive character but held that when it was combined with CHATEAU the combined term CHATEAU MINUTY was descriptive or of a low distinctive character (see [31] of the Grounds of Appeal). While not expressed in these terms, I understand the Applicant to say that this is rationally insupportable.

24. I do not understand the Hearing Officer to be saying this. There is a danger that, by focussing on the above extracts, one loses his meaning. In particular, the extracts should be read in the context of that quoted at paragraph 8.e above.

25. By this, I understand the Hearing Officer to be saying that, assuming MINUTY has enhanced distinctive character, "Chateau Minuty" would be read as one (a unity), noting that "chateau" (not MINUTY) is descriptive or lowly-distinctive character[1]. The Hearing Officer concluded that this unity reduces MINUTY's overall distinctiveness. He concludes that JEANNE remains the dominant and distinctive element of the Application.

26. This is consistent with what the Hearing Officer says at [117] of his Decision, namely:

[1] In this respect, it is helpful to read the sentence with a comma inserted after "unity" as follows: "… consumers will read 'chateau Minuty' as a unity, with 'chateau' having a descriptive or lowly-distinctive character."

> "117. Turning to the [Application], 'JEANNE' again appears in a prominent position and is likely the first element consumers will read, given the natural left-to-right and top-to-bottom reading pattern. In the [Application] 'JEANNE' is displayed in bold, large lettering, overshadowing the accompanying words 'Chateau Minuty', which will not be perceived as the primary brand identifier. Visually and conceptually, 'Chateau Minuty' plays a subordinate role compared to 'JEANNE', which dominants consumer perception."

27. Viewed through this prism, the Applicant's submissions again amount to a challenge of the Hearing Officer's factual findings and the weight to be given to the various elements when assessing the overall impression of the Application. Again, I can only interfere with those findings if they are rationally insupportable, which I do not find here.

28. In any event, I do not see that the Applicant is assisted by its submission that MINUTY would act as the indicator of origin in the Application sufficient to distinguish it from the Third Earlier Mark.

29. This scenario is analogous to the position in *Medion AG v Thomson Multimedia Sales Germany & Austria GmbH* Case C-120/04 as applied in *Bimbo SA v. OHIM* C-591/12. Here, the European Court of Justice (as it then was) concluded that where a party places its company name (such as MINUTY) adjacent to an earlier mark (such as JEANNE), if the similar common element (JEANNE) of the combination formed retains an independent distinctive role (as would be here) there may remain a likelihood of confusion.

30. The Opponent's representative made this point forcibly through two examples:

    a. First, she explained that if an applicant were able to register a trade mark identical to an earlier mark by the applicant adding its well-known brand, this would be a licence to circumvent the effects of s. 5(2) of the Act;

    b. Second, she noted that the use by the Applicant of JEANNE in combination with MINUTY could give rise to reverse confusion similar to that contemplated in *Twentieth Century Fox v. Comic Enterprises* [2016] EWCA Civ 41.

Whyte and Mackay Ltd v Origin Wine UK Ltd [2015] EWHC 1271

31. Both parties relied on *Whyte and Mackay*. I do not consider the authority to be on all fours with the situation here. First, in that case, the common element between the earlier mark and application was the 'company name', ORIGIN, not the 'brand' JURA. Here the common element is the 'brand' JEANNE, with the company name 'MINUTY' being added. Second, the court concluded that the 'company' name, ORIGIN, had a minimum degree of distinctive character. Here, the Applicant submits that the 'company' name, MINUTY has enhanced distinctive character. Third, the Court found the meaning of ORIGIN (namely, alluding to the geographic or trade origin of the drink in question) to be relevant to its ultimate finding. This is not applicable here. Fourth, the goods for which one of the earlier marks was registered was held to be of a low degree of similarity to that for which the application was registered.

Decision

32. The appeal fails for the reasons given above.

Costs

33. Since the Appellant has failed in its appeal, I order the Appellant to pay to the Respondent the sum of £1,300 by way of contribution to its costs of the Appeal.

34. For the costs below, the Hearing Officer ordered the Appellant to pay the Respondent £1,300 by way of contribution to its costs.

35. Accordingly, I order that the Appellant must pay to the Respondent the sum of £2,600 within 21 days of this decision.

Antony Craggs
Appointed Person
24 March 2026

Representation

Applicant/Appellant: Mr Jasper Smith, Wilson Gunn LLP
Opponent/Respondent: Ms Clare Turnbull, Venner Shipley LLP