O/0377/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00004112122
BY G1 BIO CO., LTD.
TO REGISTER THE TRADE MARK:

IN CLASS 3

AND

IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 452145
BY SUZANNE JACKSON

BACKGROUND AND PLEADINGS

1. On 15 October 2024, G1 BIO Co., Ltd. ("the applicant") applied to register the trade mark shown on the cover page of this decision in the United Kingdom ("the applicant's mark"). The applicant's mark was published for opposition purposes on 25 October 2024, and registration is sought for the following goods:

Class 3: Cosmetics; mask pack for cosmetic purposes; make-up; cosmetic preparations for the hair; cosmetic preparations for body care; cosmetic preparations for skin care; perfume; shampoos; hair rinses.

2. On 24 January 2025, the applicant's mark was opposed in its entirety by Suzanne Jackson ("the opponent") under section 5(2)(b) of the Trade Marks Act 1994 ("the Act"). For the purposes of the opposition, the opponent relies upon the following trade marks:

United Kingdom Trade Mark ("UKTM") 3772964
Filing Date: 01 April 2022
Registration Date: 26 August 2022
Relying on some goods, namely:

Class 3: Cosmetics and cosmetic preparations; skincare preparations; make-up; mascara; eyebrow pencils; adhesives for false eyelashes, hair and nails; false eyelashes, eyebrows and nails; lip glosses and lipsticks; nail varnish, gels, polish, polish pens and nail care preparations; nail polish remover; cosmetic pencils; shampoos; cosmetic preparations for skin care; sun-tanning preparations; artificial tanning preparations; body cleaning and beauty care preparations; beauty lotions, balm creams and serums; body cleansing foams, shower and bath gels; abrasive boards

for use on fingernails; beauty masks; artificial nails for cosmetic purposes; colour cosmetics for the eyes; eye make-up remover; facial concealer; make-up powder; make-up removing lotions, milks and preparations; make up foundations; powder compacts and skin foundation; fragrances; body fragrances; eau de toilette; cologne; perfume; body sprays.

("the opponent's first mark")

SOSU
United Kingdom Trade Mark ("UKTM") 3772962
Filing Date: 01 April 2022
Registration Date: 26 August 2022
Relying on some goods, namely:

Class 3: Cosmetics and cosmetic preparations; skincare preparations; make-up; mascara; eyebrow pencils; adhesives for false eyelashes, hair and nails; false eyelashes, eyebrows and nails; lip glosses and lipsticks; nail varnish, gels, polish, polish pens and nail care preparations; nail polish remover; cosmetic pencils; shampoos; cosmetic preparations for skin care; sun-tanning preparations; artificial tanning preparations; body cleaning and beauty care preparations; beauty lotions, balm creams and serums; body cleansing foams, shower and bath gels; abrasive boards for use on fingernails; beauty masks; artificial nails for cosmetic purposes; colour cosmetics for the eyes; eye make-up remover; facial concealer; make-up powder; make-up removing lotions, milks and preparations; make up foundations; powder compacts and skin foundation; fragrances; body fragrances; eau de toilette; cologne; perfume; body sprays.

("the opponent's second mark")

3. It is noted that the opponent's first mark was partially surrendered on 16 December 2025, and its second mark on 22 April 2026. The applicant's mark was filed on 15 October 2024, which is the relevant date for the purposes of these proceedings. As the partial surrenders occurred after the relevant date, they have no effect on this

opposition. I must therefore consider the specification of the opponent's marks as they stood on the relevant date, rather than in their current form.

4. The opponent's marks qualify as 'earlier marks' in accordance with section 6 of the Act. As the marks had not been registered for five years or more at the filing date of the application, they are not subject to the proof of use requirements specified within section 6A of the Act. Consequently, the opponent may rely upon all of the goods for which the earlier marks are registered without having to establish genuine use.

5. In its statement of grounds, the opponent claims that the marks are similar and that the goods are identical or similar, and as such, there exists a likelihood of confusion.

6. The applicant filed a counterstatement in which it denied the claims against it, with the exception of the issue of similarity between the parties' goods, which it admits are similar.

7. The applicant is represented by Mathys & Squire LLP and the opponent by Keltie LLP. During the evidence rounds, neither party filed evidence, however, the opponent filed written submissions. Neither party requested a hearing, nor did they file written submissions in lieu of a hearing. This decision is taken following a careful review of the papers before me.

8. 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

9. Section 5(2)(b) of the Act reads 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."

10. Section 5A of the Act states as follows:

"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."

11. The following standard summary of the principles applicable to the assessment of the likelihood of confusion was approved by the Supreme Court in *Iconix Luxembourg Holdings SARL v Dream Pairs Europe Inc & Anor*, [2025] UKSC 25:

(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 the goods

12. The competing goods are as follows:

The opponent's goods	The applicant's goods
Class 3 Cosmetics and cosmetic preparations; skincare preparations; make-up; mascara; eyebrow pencils; adhesives for false eyelashes, hair and nails; false eyelashes, eyebrows and nails; lip glosses and lipsticks; nail varnish, gels, polish, polish pens and nail care preparations; nail polish remover; cosmetic pencils; shampoos; cosmetic preparations for skin care; sun-tanning preparations; artificial tanning preparations; body cleaning and beauty care preparations; beauty lotions, balm creams and serums; body cleansing foams, shower and bath gels; abrasive boards for use on fingernails; beauty masks; artificial nails for cosmetic purposes; colour cosmetics for the eyes; eye make-up remover; facial concealer; make-up powder; make-up removing lotions, milks and preparations; make up foundations; powder compacts and skin foundation; fragrances; body fragrances; eau de toilette; cologne; perfume; body sprays.	Class 3 Cosmetics; mask pack for cosmetic purposes; make-up; cosmetic preparations for the hair; cosmetic preparations for body care; cosmetic preparations for skin care; perfume; shampoos; hair rinses.

13. In *Canon*, the Court of Justice of the European Union ("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."

14. 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.

15. In *Gérard Meric v OHIM,* Case T- 133/05, the General Court ("GC") stated that:

"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 für 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."

16. For the purposes of considering the issue of similarity of the goods, it is permissible to consider groups of terms collectively where appropriate: *Separode Trade Mark,* BL O-399-10.

17. The opponent's goods are identical under both earlier marks. Accordingly, for the purposes of the goods comparison, I will treat the goods covered by the two earlier marks as the same and will refer to them collectively as "the opponent's goods".

18. The opponent submits that the applicant's goods are identical or, at least, highly similar to the opponent's goods, and that they usually coincide in terms of producer, relevant public, and distribution channels.[1]

19. In its counterstatement, the applicant submits that its goods are similar to those of the opponent.[2] However, it has not provided any submissions as to the degree of similarity. I will therefore carry out my comparison in the usual away, that is, by applying the relevant factors.

Cosmetics; mask pack for cosmetic purposes; cosmetic preparations for the hair; cosmetic preparations for body care; cosmetic preparations for skin care

20. The above applied for terms are clearly encompassed by the opponent's broader term "*Cosmetics and cosmetic preparations*". As such, I find that the competing terms are identical under the principle outlined in Meric.

Make-up

21. The term "*Make-up*" appears expressly in the opponent's specification and is, therefore, self-evidently identical to the applicant's applied for term.

[1] Opponent's submissions, pages 7-9
[2] Form TM8, page 4, Paragraph 7

Perfume

22. The term "*Perfume*" likewise appears expressly in the opponent's specification and is, therefore, self-evidently identical to the applicant's applied-for term.

Shampoos; hair rinses

23. The opponent's specification contains the term "*Shampoos*", which is identical to the applicant's applied-for term *"Shampoos*". The term "*hair rinses*" constitutes a cosmetic preparation for hair care and is encompassed by the opponent's broader term "*Cosmetics and cosmetic preparations*". Accordingly, the competing goods are identical under the Meric principle.

The average consumer and the purchasing act

24. It is necessary for me to determine who the average consumer is for the goods in question and how the goods are likely to be selected. The average consumer is deemed to be reasonably well informed, observant and circumspect.[3]

25. In *Iconix Luxembourg Holdings SARL v Dream Pairs Europe Inc & Anor*, [2025] UKSC 25, the Supreme Court approved the comments of Arnold LJ in *Lidl Great Britain Ltd & Anor v Tesco Stores Ltd & Anor* (Rev1) [2024] EWCA Civ 262, where he pointed out that:

> (a) Consumers who are ill-informed or careless, or consumers with specialised knowledge or who are excessively careful are excluded from consideration;
>
> (b) The average consumer provides a standard which enables the courts to strike a balance between the competing interests involved, such as trade mark owners, their competitors and consumers;

[3] *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), paragraph 60

(c) The average consumer is neither a single hypothetical person nor a mathematical average; assessment from the perspective of the average consumer does not involve a statistical test. There is no single meaning rule and if, having regard to the perceptions and expectations of the average consumer, the court considers that a significant proportion of the relevant public is likely to be confused, a finding of infringement may properly be made;

(d) Assessment from the perspective of the average consumer is intended to facilitate adjudication of trade mark disputes by providing an objective criterion, by promoting consistency of assessment and by and enabling courts and tribunals to determine such issues so far as possible without the need for evidence;

(e) The average consumer's level of attention varies according to the category of goods or services in question; and

(f) the average consumer rarely has the opportunity to make direct comparisons between trade marks (or between trade marks and signs) and must instead rely upon the imperfect picture of the trade mark they have kept in their mind.

26. The average consumer for the goods at issue is likely to be a member of the general public. That said, the goods will also be sought by members of the trade who use them in the provision of services, such as beauticians, hairdressers, and make-up artists. The goods are selected fairly frequently and are likely to be obtained by self-selection from the shelves of retail outlets, including health and beauty retailers, supermarkets, and beauty salons, or through online equivalents. Visual considerations are therefore likely to dominate the selection process. However, I do not discount the role of aural considerations, for example where the goods are purchased following interactions with sales assistants or professionals in the beauty and hair industry.

27. The goods are likely to range in cost from inexpensive items such as lip balms to more expensive goods such as anti-ageing creams. In terms of the level of attention paid, this will vary depending on what is being selected. For example, goods such as

lip balms and make-up remover wipes are likely to be casual purchases attracting a lower degree of attention. By contrast, cosmetic goods for skincare and shampoos targeted at specific concerns are likely to attract a medium degree of attention, as consumers will take into account factors such as suitability, ingredients, and ethical considerations, including sustainability.

Comparison of the marks

28. It is clear from *Sabel BV v. Puma AG* 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.

29. The CJEU stated in *Bimbo SA v OHIM,* Case C-591/12P, 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 relevant 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 dissect the trade marks artificially, although it is necessary to take into account the distinctive and dominant components of the trade 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 respective trade marks are shown below:

The opponent's mark	The applicant's mark
 ("the opponent's first mark") SOSU ("the opponent's second mark")	

32. I have the opponent's submissions and the applicant's comments as set out in its counterstatement regarding the similarity of the respective marks. While I do not intend to discuss these in full here, I have taken them into account and will refer to them where necessary below. For the avoidance of doubt, I confirm that I have given all submissions careful consideration in making the following comparison.

33. As a preliminary point, the opponent has referred to a number of decisions in support of its position. While I have taken these into account, such decisions are not binding and turn on their own facts. I must therefore assess the similarity of the marks by reference to their overall impressions in the present case.

Overall impression

34. The opponent's first mark is a figurative mark consisting of the four letters 'SOSU' in a standard black typeface. The letters are arranged in a stacked format, with 'SO' positioned above 'SU'. Each letter is the same size. The letters are encompassed within a thin black border. The overall impression of the mark lies in the letters 'SOSU', with the surrounding border playing a much lesser role. The opponent's second mark is a word-only mark consisting solely of the letters 'SOSU'. There are no other elements to contribute to the overall impression, which lies in the word 'SOSU' itself.

35. The applicant's mark is a figurative mark consisting of the four letters 'SOQU' in a standard black typeface. The letters are arranged in a stacked format, with 'SO' positioned above 'QU'. Each letter is the same size. The letter 'Q' contains a small device resembling a magic wand. Beneath the letters are the words 'THE SKIN OF QUEEN' presented in uppercase in a standard black typeface and in a significantly smaller font than the letters 'SOQU'. The opponent submits that the wording 'THE SKIN OF QUEEN' is smaller and less distinctive when compared to the 'SOQU' element, which it contends is the dominant element of the mark.[4] The applicant argues that the wording 'THE SKIN OF QUEEN' distinguishes the marks and cannot be disregarded in the overall impression.[5] In my view, while the wording contributes to the overall impression, its relatively small size and subordinate positioning reduce its prominence. In addition, the phrase alludes to the nature and intended purpose of the goods, namely skincare associated with luxury or high quality. As such, it is likely to be perceived as promotional in nature and possesses a lower degree of distinctive character. I find that the element 'SOQU' is the dominant and most distinctive element of the mark, with the wording 'THE SKIN OF QUEEN' playing a lesser role and the device element playing a lesser role still, in the overall impression.

Visual comparison

36. Visually, the marks share the letters 'S' and 'O' at the start and 'U' at the end. The shared structure and, in the case of the opponent's first mark, the stacked presentation, contribute to a degree of visual similarity. This similarity is reinforced by the letters 'SO' appearing at the beginning of the respective marks, a position to which consumers tend to pay greater attention[6] and, in the case of the opponent's first mark, at the top of the stacked presentation. The opponent submits that the applicant's mark is visually highly similar to both of the opponent's marks.[7] In particular, it submits that the equal size and positioning of the applicant's mark and the opponent's first mark are particularly striking, while the applicant's mark and opponent's second mark are visually similar by virtue of their shared beginnings and endings.[8] The marks differ in

[4] Form TM7, page 9, question 9
[5] Form TM8, page 4, Paragraph 5
[6] *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02
[7] Opponent's submissions, page 1, paragraph 4; page 5, paragraph 3
[8] Opponent's submissions, page 2, paragraph 2; page 5, paragraph 4

the third letter, namely ‘S’ in the opponent’s marks and ‘Q’ in the applicant’s mark, which the applicant argues creates a noticeable visual difference.[9] In my view, while it is arguable that this difference is more apparent in the opponent’s first mark, where the ‘SS’ appears at the beginning of the stacked presentation, when the marks are considered as a whole this is offset by their shared stacked presentation. In relation to the opponent’s second mark, which is a word-only mark, the difference in the third letter is less noticeable, as it is subsumed within the body of the mark. The marks also differ due to the presence of a device element within the letter ‘Q’ in the applicant’s mark and the wording ‘THE SKIN OF QUEEN’ displayed beneath the letters. These elements have no counterpart in the opponent’s marks. While they play lesser roles in the overall impression of the applicant’s mark, they remain points of visual difference. Taking account of my earlier findings regarding the overall impressions of the marks, I find that they are visually similar to a medium degree.

Aural comparison

37. Aurally, the opponent’s marks are likely to be pronounced ‘SO-SUE’. The applicant’s mark is likely to be pronounced ‘SO-KOO’. The marks therefore share the first syllable ‘SO’ but differ at the beginning of the second syllable, namely ‘S’ and ‘K’. While this difference is clearly audible, the terminal vowel sound of the second syllable is likely to be pronounced in the same way in both marks, giving rise to a degree of aural similarity. It is arguable whether ‘THE SKIN OF QUEEN’ in the applicant’s mark will be articulated by the average consumer. Given its subordinate size and positioning, as well as its promotional function, my view is that it is less likely to be articulated. On that basis, I find that the marks are aurally similar to between a medium and high degree. Even if the words ‘THE SKIN OF QUEEN’ are articulated, I find that the marks remain aurally similar to a medium degree.

Conceptual comparison

38. For the purposes of the conceptual comparison, I must consider whether the marks convey a meaning to the average consumer. The word ‘SOSU’ will be perceived as

[9] Form TM8, page 4, paragraph 4.

an invented word with no conceptual meaning. I note the applicant's submission that the wording 'THE SKIN OF QUEEN' provides context and meaning to 'SOQU', on the basis that it would be perceived as an acronym for 'SKIN OF QUEEN', which it contends renders the marks conceptually different.[10] While I do not exclude that such an interpretation is possible, in my view it would require a degree of analysis that is unlikely to be undertaken by the average consumer, particularly as the wording is 'THE SKIN OF QUEEN', the acronym for which would more naturally be 'TSOQ'. Accordingly, as with 'SOSU', I consider that the word 'SOQU' will be perceived as an invented word with no conceptual meaning. In that regard, I find that the dominant word elements of the marks are conceptually neutral. The wording 'THE SKIN OF QUEEN', although playing a lesser role in the applicant's mark, conveys a clear concept. To the extent that the competing marks convey any concepts, they are dissimilar.

Distinctive character of the earlier marks

39. The distinctive character of a trade mark can be measured only, first, by reference to the goods or services in respect of which registration is sought and, second, by reference to the way it is perceived by the relevant public. 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 *WindsurfingChiemsee 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

[10] Form TM8, page 5, paragraph 5

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)."

40. Registered trade marks possess varying degrees of inherent distinctive character, ranging from very low, where they are suggestive or allusive of a characteristic of the goods or services, to high, such as invented words with no allusive qualities. Although the distinctive character of a mark may be enhanced through use, the opponent filed no evidence to that effect. As such, I have only the inherent position to consider.

41. The distinctive character of the opponent's first mark lies overwhelmingly in the letters 'SOSU', and although the presentation and border provide a contribution, those elements do not materially increase the distinctiveness of the mark over and above the letters 'SOSU'. The distinctive character of the opponent's second mark lies in the word 'SOSU', as its sole element. The term 'SOSU' will be perceived by the average consumer in the UK as an invented word and does not therefore describe or allude to the goods covered by the opponent's marks. Given the absence of any known meaning, I find that the opponent's marks enjoy a high degree of inherent distinctive character.

Likelihood of confusion

42. 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. One such factor 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 (*Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97). As I mentioned above, it is necessary for me to keep in mind the distinctive character of the earlier trade marks, the average

consumer for the goods, and the nature of the purchasing process. In doing so, I must be mindful 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.

43. 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.

44. Earlier in the decision I found that:

- The goods at issue are identical.

- The average consumer for the goods at issue is a member of the general public, and in some instances, a professional, who will pay a low to medium degree of attention during the purchasing process.

- The purchasing process for the goods is predominantly visual, although, I do not discount an aural component.

- The overall impression of the opponent's first mark predominantly lies in the letters 'SOSU', with the surrounding border playing a much lesser role. The overall impression of the opponent's second mark lies in the word 'SOSU'.

- The overall impression of the applicant's mark is dominated by the letters **'**SOQU', with the wording 'THE SKIN OF QUEEN' playing a lesser role and the device element playing a lesser role still.

- The marks are visually similar to a medium degree and aurally similar to between a medium and high degree, while being conceptually dissimilar.

- The earlier marks are inherently distinctive to a high degree.

45. Taking all these factors into account and bearing in mind the imperfect recollection of the average consumer, it is my view that there is a likelihood of the marks being mistaken for one another, particularly given the identical goods at issue and the high degree of inherent distinctive character of the opponent's marks. I reach this conclusion on the basis that the marks share a medium degree of visual similarity and a medium to high degree of aural similarity. The dominant element of the applicant's mark, 'SOQU', shares an identical beginning and ending with the opponent's marks, 'SOSU', and it is this element upon which the average consumer is most likely to pin their recollection. The wording 'THE SKIN OF QUEEN' and the device element play lesser roles, and the average consumer is unlikely to accurately recall whether the dominant element is accompanied by a promotional tagline and a small device. When paying a low to medium degree of attention, the average consumer is likely to overlook the difference in the third letter. In the case of the opponent's first mark, the identical stacked structure reinforces the visual similarity. In the case of the opponent's second, word-only mark, the difference is subsumed within the body of the mark. Although I have found the marks to be conceptually dissimilar, this finding arises solely from the wording 'THE SKIN OF QUEEN' in the applicant's mark, which plays a lesser role, is low in distinctive character, and is likely to be seen as a promotional tagline. As such, this conceptual difference is of limited significance in the overall assessment. Even if the word 'SOQU' were perceived as an acronym for 'THE SKIN OF QUEEN', I consider that this would not materially alter the conceptual assessment, given the low distinctive character and promotional nature of that wording. Given my finding that the dominant elements of the marks are likely to be mistaken for one another and taking into account the lesser weight attributed to the remaining elements of the applicant's mark, I find, applying the principle of interdependence, that there exists a likelihood of direct confusion between the marks at issue.

46. For the sake of completeness, I will now proceed to consider indirect confusion. In doing so, I remind myself of the case of *L.A. Sugar Limited v By Back Beat Inc*, BL O/375/10, 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)."

47. While the above examples in *L.A. Sugar* are noted, they are not intended to be treated as an exhaustive list of the only instances wherein indirect confusion occurs.

48. The marks share highly similar dominant and distinctive verbal elements, namely ‘SOSU’ and ‘SOQU’. In my view, these elements are, bearing in mind imperfect recollection, likely to be misremembered for one another. Having imperfectly recalled these elements for one another, the average consumer is likely to perceive the addition of the tagline ‘THE SKIN OF QUEEN’ and the small device element as indicating a variant or sub-brand with additional promotional and decorative elements, rather than a different trade origin. Similarly, the stylistic differences between the marks are likely to be perceived as variant brands used by the same undertaking in different contexts or formats. In this regard, the opponent’s second mark, being a word-only mark, could be perceived as the form used where plain wording is customary, whereas the applicant’s mark may be understood as being used in promotional or marketing contexts. Consequently, I find that there exists a likelihood of indirect confusion between the marks at issue.

CONCLUSION

49. The opposition under section 5(2)(b) has been successful. Subject to any successful appeal, the application will be refused in full.

COSTS

50. The opponent has been successful and is entitled to a contribution towards its costs based upon the scale published in the Tribunal Practice Notice 1/2023. In the circumstances, I award the opponent the sum of £700 as a contribution towards the cost of the proceedings. The sum is calculated as follows:

Preparing a statement and considering the other side’s statement:	£250
Preparing submissions:	£350
Official fees:	£100
Total:	**£700**

51. I hereby order G1 BIO Co., Ltd. to pay Suzanne Jackson the sum of £700. This sum should be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the final determination of the appeal proceedings.

Dated this 30th day of April 2026

Sarah Adam-Smith
For the Registrar