

O/0436/26

TRADE MARKS ACT 1994

**IN THE MATTER OF A JOINT HEARING HELD IN RELATION TO
APPLICATION NO. 4212630**

TO REGISTER THE TRADE MARK:

**LOVINGIT[®]
·CLOTHING·**

IN THE NAME OF PAUL ANGUS NEWMAN

AND

**THE LATE FILING OF FORM TM8 AND COUNTERSTATEMENT FILED IN
DEFENCE OF AN OPPOSITION THERETO UNDER NO. 600003804**

BY JANA ANTONIA SPELEERS

BACKGROUND

1. On 2 June 2025, paul angus newman (“the applicant”) applied to register the trade mark shown on the cover page to this decision in the United Kingdom in respect of the following goods and services:

Audio and video recordings, CDs, DVDs, MP3s, downloadable audio and video recordings featuring music, apparatus for recording, reproducing, carrying, storing, processing, manipulating, transmitting, broadcasting, retrieving and reproducing music, media content, software applications, headphones, stereo speakers, audio speakers, audio, video, and digital mixers, microphones, mobile telephone covers, mobile telephone cases, mobile telephone cases made of leather or imitations of leather, mobile telephone covers made of cloth or textile materials, covers and cases adapted for electronic mobile or multimedia devices, sunglasses. (Class 9)

Printed matter, posters, sheet music, photographs, calendars, plastic and paper bags, packaging, stationery, books, magazines, newsletters, periodicals, brochures, greeting cards, music books, music instruction, manuals, music magazines. (Class 16)

Clothing, headwear, footgear, T-shirts, caps, hats, gloves, scarves, socks, belts, footwear. (Class 25)

Musical entertainment and performance services, live musical entertainment, arrangement and presentation of live musical performances, production and performance of musical shows and concerts, concerts, musical and video performances, sound recording and video entertainment services, digital music (not downloadable) provided from the internet, singer songwriter services, production of music, films, videos and television programmes and recordings, music publishing services, education and training services, cultural activities, providing online electronic publications, development of formats for television programmes, editing of television programmes. (Class 41)

The applicant’s request was published for opposition purposes on 20 June 2025.

2. On 22 September 2025, via the fast track opposition procedure, the application was opposed in its entirety by Jana Antonia Speleers (“the opponent”) under section 5(2)(b) of the Trade Marks Act 1994 (“the Act”), by virtue of filing Form TM7F (“Notice of FAST

TRACK opposition and statement of grounds”).¹ For the purpose of the opposition, the opponent relies upon the following trade mark and all goods and services for which it is registered. I set out details of the opponent’s mark below, with the terms for which it is registered set out at Annex 1 to this decision.

United Kingdom Trade Mark (“UKTM”) 3630165

LOVIN IT

Filing date: 21 April 2021

Registration date: 25 July 2025

3. On 2 October 2025, the Tribunal served the Form TM7F upon the applicant. The official serving letter contained the following:

“If you wish to continue with your application, you need to file a notice of defence and counterstatement by completing Form TM8 - please note the important deadline below.

...

Rule 18(1) and 18(3) of the Trade Marks Rules 2008 require that you must file your notice of defence and counterstatement (Form TM8) within **two months** from the date of this letter. Alternatively, if both parties wish to negotiate to resolve the dispute, they may request a “cooling off period” by filing a Form TM9c, which will extend the 2 month period in which to file a Form TM8 by up to a further seven months.

...

IMPORTANT DEADLINE: A completed Form TM8 (or Form TM9c) MUST be received on or before 2 December 2025.

¹ This followed the filing of an official form TM7A (“Notice of threatened opposition”) on 20 August 2025, which effectively extended the opposition period for the opponent for a further month.

Rule 18(2) of the Trade Marks Rules 2008 states that “*where an applicant fails to file a Form TM8 within the relevant period, the application for registration, insofar as it relates to the goods and services in respect of which the opposition is directed, shall, unless the registrar otherwise directs, be treated as abandoned.*”
It is important to understand that if the deadline date is missed, then in almost all circumstances, the application will be treated as abandoned.
(original emphasis)

4. As no response was received, on 9 January 2026 an official letter was issued to the applicant, and copied to the opponent, with the relevant part reading as follows:

“Our letter dated 2 October 2025 invited you to file a Form TM8 and counterstatement on or before **2 December 2025**.”

As no Form TM8 and counter-statement has been filed within the time period set, Rule 18(2) of the Trade Mark Rules 2008 (as amended) applies. Rule 18(2) states:

“Where the applicant fails to file a Form TM8 or counter-statement within the relevant period, the application for registration, insofar as it relates to the goods and services in respect of which the opposition is directed, shall, unless the registrar otherwise directs, be treated as abandoned.”

It is our preliminary view that the application should be treated as abandoned because no defence was filed by the deadline referred to above.

If you disagree with the preliminary view, you **must** file the Form TM8 and counter-statement **and** a witness statement setting out the reasons for the failure to meet the deadline on, or before, **9 February 2026**.”
(original emphasis)

5. On 12 January 2026, the applicant filed an official Form TM8 alongside a witness statement of the same date. I reproduce the pertinent part of Mr Newman's statement below:

"6. In relation to procedure, I confirm that the failure to file Form TM8 by the original deadline of 2 December 2025 was not intentional.

7. The delay arose due to ongoing professional and commercial commitments and a genuine misunderstanding that correspondence relating to the opposition was being addressed alongside wider brand protection matters already in progress.

8. Upon receipt of the Intellectual Property Office letter dated 9 January 2026, I acted promptly to prepare and submit Form TM8 together with this witness statement.

9. I respectfully submit that no prejudice has been caused to the Opponent and that it is in the interests of justice for the Applicant to be permitted to defend the application on its merits."

6. By way of an official letter dated 19 February 2026, the applicant was advised as follows:

"I acknowledge receipt of your email dated 12 January 2026, which also included a Witness Statement of Paul Angus Newman.

Upon a review of the proceedings, including taking the content of the Witness Statement into consideration, it is the preliminary view of the Registry to refuse the discretion to allow the late filing of a Form TM8 and counterstatement or Form TM9c into the proceedings.

When considering the request to admit the late filed TM8 the Registrar has taken account of the guidance provided by the Appointed Person in *Kix* (BL-O-035-11) and *Mercury* (BL-O-050/12) which indicate that the Registrar can only exercise its

discretion and admit a late filed TM8 where there are '*extenuating circumstances*' and '*compelling reasons*' to do so.

The circumstances in this case do not provide sufficient reasoning to allow a retrospective extension of time to file a Form TM8 and counterstatement. In the absence of any procedural irregularity identified on the part of the Registrar, there exists no grounds on which to exercise any discretion.

If either party disagrees with the preliminary view given, they should request a hearing within 14 days of this letter, which is on or before **5 March 2026**.

Before requesting a hearing to challenge a preliminary view, you should bear in mind the following points:

- the deadline for filing a counter-statement on Form TM8 is not a flexible time limit (see Trade Mark Rule 77(6) and Schedule 1 to those rules);
- the legal constraints on the exercise of discretion by the Registrar in these circumstances; and
- that in the event that the hearing officer upholds the preliminary view, there may be costs implications arising from the hearing against the party who requested the hearing.

The above information is not intended to dissuade you from requesting a hearing, but merely to inform you of the potential consequences should you be unsuccessful in overturning the preliminary view.

If no response is received within the period allowed, the preliminary view will automatically be confirmed.”

(original emphasis)

7. On 20 February 2026, the applicant requested a hearing. He also filed a second witness statement (of the same date), from which I reproduce the relevant paragraphs below:

“Timeline and circumstances

3. At the time the deadline for filing Form TM8 expired, I was managing multiple ongoing professional and commercial commitments connected with my trading activities.

4. During the same period I was actively engaged in steps to protect my wider intellectual property rights, including matters relating to my existing registered trade mark “We’re Loving It, Loving It, Loving It®” (UK00003256086).

5. In those circumstances I genuinely, but mistakenly, believed that the actions being taken in relation to my wider brand protection were sufficient to protect my position in these proceedings.

6. This was a genuine misunderstanding on my part as a litigant in person and was not a deliberate decision to disregard the Tribunal’s deadline.

Prompt action

7. Upon receipt of the Registry’s letter dated 9 January 2026, I immediately took steps to:

- (a) prepare Form TM8
- (b) prepare a counterstatement
- (c) prepare a witness statement

8. These documents were filed on 12 January 2026, without further delay.

Nature of the delay

9. The delay in filing the Form TM8 was therefore:

- (a) not intentional
- (b) the result of a genuine misunderstanding
- (c) limited in duration

(d) remedied promptly once identified

Prejudice

10. The Opponent has suffered no prejudice as a result of the delay because:

(a) the proceedings remain at an early stage

(b) no evidence rounds have taken place

(c) no substantive procedural steps have occurred in reliance on the absence of a defence

Intention to defend

11. It has always been my clear intention to defend the application.

12. This is demonstrated by the fact that a fully pleaded Form TM8 and counterstatement were filed as soon as the procedural position was understood.

Interests of justice

13. Refusing to admit the TM8 would prevent the application from being determined on its merits.

14. Allowing the TM8 to be admitted would:

(a) enable both parties to be heard

(b) allow the dispute to be determined properly

(c) cause no procedural disadvantage to the Opponent

15. I respectfully submit that, in all the circumstances, this is a case in which it is just and proportionate for the Registrar to exercise discretion and admit the late filed Form TM8.”

8. A hearing was appointed for 23 March 2026 and the parties were notified by way of official letters dated 5 March 2026. In the same letter, the parties were asked to inform the registry (within 7 days of the letter's date) of who will be representing them at the hearing and to provide a suitable contact number and email address. On the morning of the hearing, correspondence was sent to both parties to the following effect:

“A Joint Hearing has been set for today at 1pm but further to our letter of 5 March 2026 we note that as yet no attendees have been given.

Please provide names, telephone numbers and email addresses of who will be attending by return email no later than 12.00pm today so that TEAMS appointments can be sent to join the hearing.”

9. When I began the hearing at 1pm as prescribed, neither party was in attendance and the case file indicates that no response was received from either side prior to the hearing's commencement. However, at 14.04, the registry received an email from the applicant confirming his name and telephone number. Mr Newman was subsequently advised by our Hearings team that the hearing had since been vacated.

10. On 25 March 2026, I wrote to both parties as follows:

“I write in regard to the joint hearing which was due to take place on 23 March 2026 at 13.00 in respect of the above proceedings, appointed at the applicant's request to challenge a preliminary view concerning the admittance of his late-filed defence. In the official letters dated 5 March 2026, parties were advised as follows:

“I refer to the request for a joint hearing in respect of the above proceedings. The Hearing is to discuss the Registry's preliminary view to deem the application as being abandoned.

The Hearing Officer will make a decision in respect of the above and may give case management directions in addition to deciding the issue giving rise to the hearing.

The Hearing Officer has reviewed the papers and is of the opinion that this matter can be dealt with as a telephone hearing. I hereby give you notice that the Hearing will take place on **Monday 23 March 2026 at 13:00hrs** (original emphasis) via the Teams Telephone Conference Link.

...

It is incumbent on the parties to provide the Tribunal with a landline or, if using a mobile telephone, to ensure that there is sufficient mobile coverage. Failure to provide a robust telephone connection can cause unnecessary delay and inconvenience and may impact on any award of costs.

Appointments will be issued with details on how to join the meeting once attendees have been confirmed by the parties.

Unless you have already done so, I would be grateful if you could inform the Registrar within 7 days from the date of this letter who will represent your clients at the above Hearing.

Please provide a contact telephone number and email address for all attendees.

..."

On the morning of the hearing, as neither party had provided the details requested in our letter (or indeed responded at all), our Hearings team contacted the respective parties to remind them that a suitable contact number was required. No responses had been received by the time I began the hearing at 13.00. After ten minutes, with neither side in attendance, the hearing was vacated. At 14.04 Mr Newman sent an email to the Tribunal Hearings mailbox providing a name and phone number.

In light of Mr Newman's email, which appears to indicate that he maintains his objection to the preliminary view, I am minded to appoint a second hearing date

which will be confirmed in due course by way of official letters. Those letters will reiterate the requirements set out in our previous letter and will make clear the revised deadline for providing the necessary details. I would recommend that either party intending to attend the hearing notifies the Tribunal of the relevant information within the revised period to avoid any further delay to proceedings. This should be regarded as a final opportunity for a hearing on this matter. Should it be vacated for a second time due to non-response, I will be minded to reach a decision on the basis of the information presently before me.”

11. On 1 April 2026, both parties were notified that a hearing had been appointed for 23 April 2026. Mr Newman confirmed his attendance on 17 April 2026 and the opponent, alongside the filing of a skeleton argument, provided details of the attending representative on 21 April 2026.

The joint hearing

Representation

12. A joint hearing took place before me, via telephone, on 21 April 2025. Mr Newman represented himself whilst the opponent was represented by Ms Areti Kostoula of Trade Mark Wizards.

Hearing discussion

13. At the opening of the hearing, I confirmed receipt of the relevant documents, which included the opponent’s skeleton argument. As it was not clear from the correspondence before the registry, I asked Ms Kostoula whether the skeleton argument had been copied to the other side. She confirmed that it had but Mr Newman advised that he had not had sight of it. Ms Kostoula confirmed the relevant details pertaining to the email that had been sent and Mr Newman was able to locate the skeleton argument which he explained had been directed to his “spam” folder.

14. At the hearing, I began by offering Mr Newman the opportunity to provide submissions on the matter. Mr Newman gave a concise explanation of the

circumstances surrounding the failure to meet the prescribed deadline. He explained that he received the email “late” and has been travelling, which caused the deadline to be missed. When I asked whether he had been under the impression that the matter of filing a defence was being dealt with elsewhere, as indicated in his witness statement, or had simply failed to identify the deadline, Mr Newman confirmed it was the latter.

15. Ms Kostoula, for the opponent’s part, submitted that the official serving later made clear both what the deadline was for the applicant to file his defence, as well as the consequences of not filing a defence within the prescribed period. She submitted that the applicant had not presented any compelling reasons or extenuating circumstances sufficient to justify the exercise of the registrar’s discretion under Rule 18(2). Ms Kostoula also acknowledged a number of points raised in Mr Newman’s witness statement(s). As to Mr Newman being a litigant in person, she contended that this does not lower the procedural threshold and, as for his reference to other commercial responsibilities or commitments, she maintained that this was not a sufficient justification. In reply to Mr Newman’s submission insofar as he took “prompt action” to file the Form TM8, Ms Kostoula pointed out that this was only after the intervention of the registry and constituted a delay of approximately six weeks which, in her view, was “not trivial”. Ms Kostoula acknowledged that, whilst Mr Newman had indicated that he had always had an intention to defend, Rule 18 is concerned with compliance, not intention. As to Mr Newman’s point regarding a lack of prejudice, Ms Kostoula submitted that this is not the test under Rule 18. Finally, Ms Kostoula suggested that to admit the late-filed defence in the present circumstances would be rewarding the non-compliant party, and that the registry should have regard to justice on the part of the compliant party too (i.e. the opponent).

16. On the matter of costs, Ms Kostoula made a request on the opponent’s behalf for off-scale costs. I will return to consider this point, if necessary, later in my decision.

17. I turned to Mr Newman for any final submissions in reply. To that end, Mr Newman summarised that he is a solo person and that the deadline was missed as he was dealing with other commitments including running his business and travelling. He also

advised during the hearing that family matters had also arisen during this time which required his attention.

18. After hearing the parties' submissions, given that Mr Newman had clearly not had an opportunity to consider the content of the opponent's skeleton argument, I proposed permitting a short period within which he may review the aforesaid argument and, if necessary, provide final comment in reply. Ms Kostoula agreed with the proposal, providing that it was indeed a *short* period, given the delays that had already been incurred. On the day of the hearing, a period of seven days was set for Mr Newman to provide final comments (due by 30 April 2026).

Final comments

19. On 30 April 2026, Mr Newman filed his final comments by way of email, reproduced below:

“Further to the hearing, I provide the following brief comments in reply to the Opponent's skeleton argument.

The Applicant maintains that this is an appropriate case for the exercise of the Registrar's discretion to admit the late-filed Form TM8.

The delay was not intentional but arose from a genuine misunderstanding of the procedural position as a litigant in person. Upon becoming aware of the position following the Registry's letter dated 9 January 2026, the Applicant acted promptly and filed a full TM8, counterstatement, and witness statement by 12 January 2026.

The delay was limited in duration and has been fully explained. The Applicant has at all times intended to defend the application and engaged with the proceedings once the position was understood.

The Applicant notes the Opponent's submissions regarding the absence of “extenuating circumstances” and “compelling reasons”. However, it is respectfully

submitted that the combination of a genuine misunderstanding by a litigant in person, together with prompt corrective action and the absence of prejudice, is capable of justifying the exercise of discretion in accordance with established Tribunal practice.

The proceedings remain at an early stage and no prejudice has been caused to the Opponent. Refusing to admit the TM8 would prevent the matter from being determined on its merits.

In relation to costs, the Applicant respectfully submits that he has acted reasonably throughout and has exercised a legitimate procedural right. This is not a case which would justify any departure from the normal scale of costs.

In all the circumstances, the Applicant respectfully invites the Hearing Officer to exercise discretion to admit the late-filed TM8.”

DECISION

Statutory provisions

20. The filing of a Form TM8 and counterstatement in opposition proceedings is governed by Rule 18 of the Rules. The relevant parts read as follows:

”18. (1) The applicant shall, within the relevant period, file a Form TM8, which shall include a counter-statement.

(2) Where the applicant fails to file a TM8 or counter-statement within the relevant period, the application for registration, insofar as it relates to the goods and services in respect of which the opposition is directed, shall, unless the registrar otherwise directs, be treated as abandoned.

(3) Unless either paragraph (4), (5) or (6) applies, the relevant period is the period of two months beginning immediately after the notification date.”

21. The combined effect of Rules 77(1), 77(5) and Schedule 1 of the Rules means that the time limit in Rule 18, which sets the period in which the defence must be filed, is non-extensible other than in the circumstances identified in Rule 77(5), which states:

“A time limit listed in Schedule 1 (whether it has already expired or not) may be extended under paragraph (1) if, and only if –

(a) the irregularity or prospective irregularity is attributable, wholly or in part, to a default, omission or other error by the registrar, the Office or the International Bureau; and

(b) it appears to the registrar that the irregularity should be rectified.”

22. The applicant has made no indication that he intends to rely on there having been a default, omission or error on the part of the office. Consequently, the only way that the applicant may be allowed to defend his trade mark application is if I exercise the discretion provided to me by the use of the words “unless the registrar otherwise directs” in Rule 18(2) in his favour.

23. When approaching the exercise of such discretion, I take into account the decisions of the Appointed Person in *Kickz AG v Wicked Vision Limited*² (“Kickz”) and *Mark James Holland v Mercury Wealth Management Limited*³ (“Mercury”), i.e. I have to be satisfied that there are extenuating circumstances which justify the exercise of the discretion in the applicant’s favour.

24. In *Music Choice Ltd’s Trade Mark*⁴ (“Music Choice”) the Court indicated that a consideration of the following factors is likely to be of assistance in reaching a conclusion as to whether or not discretion should be exercised in favour of a party in default. That is the approach that I intend to adopt, referring to the parties’ submissions to the extent that I consider it necessary to do so.

² BL O-035-11

³ BL O-050-12

⁴ [2005] RPC 18

The circumstances relating to the missing of the deadline including reasons why it was missed and the extent to which it was missed;

25. In his witness statements, Mr Newman submits that the deadline was missed due to managing other professional and commercial commitments. Mr Newman claims that he “genuinely, but mistakenly, believed that the actions being taken in relation to my wider brand protection were sufficient to protect my position in these proceedings.” At the hearing, Mr Newman attributed his failure to meet the deadline to factors including travelling, professional commitments and family matters. As a result of these factors, the deadline for filing his counterstatement was overlooked. The deadline for filing Form TM8 was 2 December 2025, with the form subsequently filed on 12 January 2026, signifying a delay of 41 calendar days.

The nature of the opponent’s allegations in its statement of grounds;

26. As detailed above, the opposition is based upon section 5(2)(b) of the Act with the opponent relying upon a single trade mark, UK registration 3630165. In brief terms, the opponent alleges that there is a likelihood of confusion between the parties’ respective trade marks.

The consequences of treating the applicant as defending or not defending the opposition;

27. Should the defence be admitted into proceedings, the applicant will be allowed to defend his application and the case will be decided on its merits. If the defence is refused, the opposition automatically succeeds and the application is deemed abandoned.

Any prejudice caused to the opponent by the delay;

28. Mr Newman submits that the opponent has not suffered any prejudice because “the proceedings remain at an early stage”, “no evidence rounds have taken place”⁵ and “no

⁵ In this regard, I keep in mind that fast track proceedings do not typically allow for evidential rounds. The opponent is obliged to file any evidence of use at the time of filing and, whilst either party may make a

substantive procedural steps have occurred in reliance on the absence of a defence”. In its skeleton argument, the opponent alleges that the delay is “substantial”. In this regard, I take note that incurring additional time and cost is usually inevitable with delays of this nature.

Any other relevant considerations such as the existence of related proceedings between the parties;

29. Neither side indicated that there were any related proceedings between the parties to consider.

Considerations

30. When approaching my decision, I keep in mind the factors outlined above and, in particular, I am mindful of the consequences the parties face whether the Form TM8 is or is not admitted. I recognise that, if discretion is not exercised in favour of the applicant, it will lose the filing date for its mark. I also recognise that the applicant may elect to re-file his application which may again be opposed by the opponent, resulting in further opposition proceedings in the future, with further cost implications. However, as the loss of filing date and the possibility of further proceedings on much the same basis are often the consequences of a failure to comply with the non-extendable deadline to file Form TM8, these factors are not particularly compelling.

31. In the official letter dated 2 October 2025, the applicant was provided with clear instructions and given a clear deadline by which he was required to file an official Form TM8 and counterstatement, should he wish to defend his application. The letter informed the applicant that, in almost all circumstances, failure to file a defence within the prescribed period would result in the application being treated as abandoned. Whilst I appreciate that the applicant is not represented, filing a counterstatement is a relatively straightforward task and, should Mr Newman have required any clarification of the process or outstanding deadlines, it would have been open to him to seek such clarification from the Tribunal at any point.

request to file further evidence, generally only in exceptional circumstances will the filing of further evidence be permitted,

32. It is difficult to understand, and Mr Newman did not expand on the point to any meaningful degree at the hearing, how he fell into a misunderstanding whereby he was under the impression that any actions taken elsewhere would have been sufficient to defend the application at issue. At the hearing, Mr Newman indicated that he had simply failed to realise that he was required to file a defence by the prescribed deadline. In this regard, the tenability of the human error argument (albeit on the application of Rule 41(6) in relation to an invalidity application) was considered by Mr Geoffrey Hobbs QC, sitting as the Appointed Person in *TESCON Trade Mark*,⁶ as follows:

“32. I readily accept that human error is not necessarily inconsistent with the existence of extenuating circumstances or compelling reasons for permitting invalidity proceedings to be defended in the exercise of the discretion conferred by rule 41(6). I would, for example, regard it as appropriate for the discretion to be exercised in favour of permitting a claim for invalidity to be defended in circumstances where it was clearly established that the failure to comply with a filing deadline of (say) 12 February 2020 was the result of an unnoticed keystroke error which caused the due date to be incorrectly entered in an otherwise reliable record keeping system as (say) 21 February 2020. It is nonetheless clear that the test to be applied cannot be taken to permit or require all human errors to be treated as excusable for the purposes of rule 41(6). There must, in other words, be a fact specific evaluation for the purpose of determining whether the particular error in question should or should not be treated as excusable in the circumstances of the case at hand.

33. This is the point at which the Proprietor’s request for relief under rule 41(6) ran into difficulty. The general tenor of the representations made on its behalf was that its attorneys had taken reasonable and proper steps to ensure that the required Form TM8 and Counterstatement were filed before expiry of the specified deadline, but were inadvertently deflected from doing so until after the deadline had expired. However, the Registrar was presented with assertions rather than evidence and materials of sufficient clarity and precision to substantiate that or any proposition to

⁶ [2020] FSR 33; BL O/240/20

the like effect. In the end, as emphasised in the Respondent's Notice, the Hearing Officer was left with no satisfactory explanation for the default which had occurred."

33. Whilst I can appreciate that Mr Newman was managing a number of external commitments, and that he may not have experience of participating in proceedings before the Tribunal, in the present circumstances I do not feel I have been provided a satisfactory explanation, or any compelling reasons as to why I should exercise the discretion available to me under Rule 18(2) in the applicant's favour. I am reminded that in dismissing the appeal in *Kickz AG*, Geoffrey Hobbs Q.C. (as he then was), sitting as the Appointed Person, found that the applicant "had been the author of his own misfortune". Insofar as Mr Newman admittedly failed to identify (and adhere to) the statutory deadline set by the registry, I find that to also be true of the applicant in the case before me.

34. Having considered the applicant's explanation as to why he failed to file a counterstatement within the prescribed period, I find that it is neither sufficient to constitute extenuating circumstances, nor does it offer any other reasonable basis upon which I would be satisfied that my intervention was justified.

Conclusion

35. The preliminary view is upheld. The applicant's Form TM8 and counterstatement are not to be admitted into the proceedings. Subject to any successful appeal, the application is treated as abandoned in respect of all goods and services applied for.

Costs

36. Given that the decision reached above effectively terminates the proceedings, I must now turn to the matter of costs. In this regard, I return to the opponent's request for costs to be awarded off the scale set out in Tribunal Practice Notice ("TPN") 1 of 2023. The reasoning behind the opponent's request was provided in its skeleton argument. I reproduce the pertinent paragraphs below:

"H. COSTS (OFF THE SCALE)

36. The Opponent seeks costs off the scale.

37. The Applicant's conduct is unreasonable in that:

- He requested a hearing despite a clear and reasoned preliminary view;
- He relies on explanations which are plainly insufficient in law;
- He has put the Opponent to unnecessary time and cost in defending an untenable position.

38. This is not a case of:

- Genuine uncertainty;
- Close discretion;
- Or borderline factual assessment.

39. It is a case where:

- The legal position is settled;
- The factual position is clear;
- The hearing should not have been necessary.

40. In those circumstances, a departure from the scale is justified."

37. Examples of circumstances where the Hearing Officer *may* consider awarding costs off-scale are provided in the TPN referred to above. It reads:

"Off-scale costs

5. Notwithstanding the published scale, the Tribunal retains the discretion to award costs "off the scale" to deal proportionately with unreasonable behaviour. It is not possible to set out all the circumstances in which a Hearing Officer might depart from the scale. It is worth clarifying though that just because a party has lost, this in itself is not indicative of unreasonable behaviour. Some examples of what might constitute unreasonable behaviour include a party seeking an (avoidable) amendment to its statement of case which, if granted, would cause

the other party to have to amend its statement or would lead to the filing of further evidence. Other examples include behaviour designed to delay, frustrate or unreasonably increase the costs/burden on the other party and/or repeated breaches of procedural rules. Off-scale costs may also be awarded if a losing party unreasonably rejected efforts to settle a dispute before an action was launched or a hearing held, or unreasonably declined the opportunity of an appropriate form of Alternative Dispute Resolution.

6. The level of off-scale costs will, generally speaking, be commensurate with the extra expenditure a party has incurred as a result of the unreasonable behaviour. Any claim for costs approaching full compensation or for “extra costs” will need to be supported by a bill itemizing the actual costs incurred. There may be some circumstances where costs below the minimum indicated by the published scale are awarded. For example, a party who does not follow a suggestion from the Hearing Officer as to the most efficient means of managing the case, may only be entitled to whatever award they would have received if they had followed the Hearing Officer’s suggestion.”

38. To my mind, the present circumstances are not compatible with any of the examples set out above. Whilst such examples may not be intended to be exhaustive, I do not consider the justification provided by the opponent particularly compelling. It was open to the applicant to challenge the registry’s preliminary view and, in light of his intention to defend his application (to which he has attested), it is hardly surprising that he elected to do so. As to whether his explanations are “plainly insufficient”, whilst I have indeed found that the justification was insufficient having applied the relevant case law, I do not accept that this would have been plainly clear to the applicant, particularly an applicant without legal representation and perhaps without a great deal of experience of similar circumstances and considerations. As for the “unnecessary time and cost” the opponent has been put to, to my mind such expenditure does not surpass any normal expectation as to what would be incurred in the present circumstances. The applicant has not, in my view, acted unreasonably. Whilst I acknowledge that the hearing was vacated and re-appointed, neither party indicated that it had any intention to attend the first-appointed hearing, nor did either provide any submissions in lieu. In short, I am not satisfied that the circumstances before me justify an award of off-scale costs in the opponent’s favour.

39. The opponent is, however, entitled to a contribution toward its costs in line with the usual scale. Applying the guidance set out in TPN 1/2023, and keeping note of the adaptation for fast-track proceedings, I award the opponent costs as follows:

Filing a Notice of Opposition: £200

Official fee: £100

Preparing for and attending the hearing,
including filing a skeleton argument: £300

Total: £600

40. I therefore order paul angus newman to pay Jana Antonia Speleers the sum of £600. This 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 22nd day of May 2026

Laura Stephens
For the Registrar

Annex 1

Goods and services relied upon

Non-medicated cosmetics and toiletry preparations; cosmetics; skincare cosmetics; body care cosmetics; cleansers; exfoliators; beauty masks; cosmetic tonics; lotions and creams; moisturising creams; sunscreen creams; hand creams; body creams; night creams; day creams; eye creams; eye washes - not for medical purposes; soaps and gels; bath and shower gels; bath preparations; bath soaps; baths salts; bath bombs; bubble baths; beauty serums; anti-ageing serums; perfumery; fragrances; incense; essential oils; hair oils; bath oils; body oils; face oils; massage oils; facial massage oils; body massage oils; essences; cleansing milk; body milk; moisturising milk; bath milk; beauty milk; makeup; makeup setting sprays; makeup foundations; concealer; lipsticks; lip gloss; lip liners; blushers; mascara; lash extensions; eye shadows; eye liner; bronzers; skin toners; highlighters (make-up); makeup primers; make-up powder; eye make-up; make-up removing preparations; make-up removers; nail cosmetics; nail care products [cosmetics]; cosmetic nail preparations; nail polish; nail varnish; nail enamels; nail gels; nail glitters; nail decolorants; nail cream; lotions for strengthening the nails; nail strengtheners; nail hardeners; nail tips; nail whiteners; nail conditioners; false nails; artificial nails; nail care preparations; nail buffing preparations; nail polish pens; nail repair preparations; gel nail removers; nail polish remover pens; nail enamel removers; nail-polish removers; nail varnish removing preparations [cosmetics]; nail primer; nail art stickers; nail polishing powder; nail polish top coat; nail polish base coat; adhesives for artificial nails; glue for strengthening nails; adhesives for fixing false nails; preparations for removing gel nails; glaze activator for strengthening nails; nail manicure products [preparations]; nail revitalising lotions [cosmetics]; nail treatment gels [cosmetics]; hair products; haircare preparations; hair cleaning preparations; hair shampoos; hair conditioners; hair colourings; hair dyes; non-medicated dentifrices; bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; baby wipes; wipes incorporating cleaning preparations; moist wipes for sanitary and cosmetic purposes; facial wipes impregnated with cosmetics; bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations. (Class 3)

Computer software, hardware and programs; mobile apps; computer software, hardware, programs and mobile apps in relation to jewellery and fashion; e-books; e-books in relation to fashion; encoded gift cards; encoded loyalty cards; computer programs; computer hardware; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; recorded and downloadable media; downloadable and electronic publications; printed publications in electronically readable form; downloadable prerecorded audio and audiovisual content, information, and commentary; downloadable electronic books, magazines, newsletters, newspapers, journals, and other publications; downloadable digital media and recordings containing sound, images, text, information, signals or software; downloadable electronic publications of books, audio books, magazines, and journals; electronic bulletin boards; podcasts; video podcasts; webcasts; podcasts, video podcasts and webcasts in relation to fashion; electronic files; data recordings including audio, video, still and moving images and text; DVDs and other digital recording media; computer software and programmes for document creation, production, conversion, recording, indexing, archiving, printing, displaying, viewing, publishing (including electronic publishing), transmission, encryption, management, typography and distribution; sound and video recordings; sound carriers; records, discs, tapes, cassettes, cartridges, cards and other carriers, all bearing or for use in bearing sound recordings, video recordings, data, images, graphics, text, programs or information; CD-ROMs, DVDs; media content; downloadable educational media; webcasts for teaching, instruction, entertainment or educational purposes; smart watches; mobile phone cases; protective covers for smartphones; leather cases for mobile phones; leather cases for smartphones; leather cases for tablet computers; protective flip covers for mobile phones; protective flip covers for tablet computers; eyeglasses; spectacle lenses; spectacle frames; spectacle cases; spectacles; sunglasses; anti-pollution masks for respiratory protection; dust masks; dust protective masks; filters for respiratory masks; respiratory mask filters [non-medical]; respiratory masks, other than for artificial respiration; goggles; protective goggles; dust goggles; safety goggles; none of the aforesaid goods being downloadable software in the nature of an application that provides curated and original text, audiocontent, images, photographs and video content in the field of restaurants, food, drink, recipes, current affairs, culture, the media, sports,lifestyle, weddings, property, health, dating, travel, books, and the arts to mobile and stationary consumer electronic devices. (Class 9)

Precious metals and their alloys; jewellery, precious and semi-precious stones; horological and chronometric instruments; rings (jewellery); engraved and custom made jewellery, including signet rings; gold, silver, platinum signet rings; pendants; medallions; cuff links; rings with gemstones; ornaments (jewellery); necklaces; earrings; bracelets; brooches; bangles; charms (jewellery); pendants; chains of precious metals; lockets; key chains of precious metal; jewellery stones of faceted glass; jewellery travel rolls; genuine and costume jewellery; watches; watch bands, straps for wristwatches, watch straps; watch chains; watch springs; watch glasses, watch crystals; watch cases; watches; wristwatches; jewellery articles of precious metals and precious stones, and imitations thereof. (Class 14)

Leather and imitations of leather; leather pouches; leather straps; leather boxes; leather shoulder belts; bags; luggage and carrying bags; cosmetic bags; handbags; shoulder bags; leather bags; travel bags; work bags; clutch bags; sports bags; gym bags; camping bags; animal carrier bags; feed bags for animals; credit card cases; pocket wallets; purses; collars, leashes and clothing for animals; clothing and costumes for animals; animal apparel; covers and wraps for animals; animal leads; animal harnesses; bits for animals; umbrellas and parasols. (Class 18)

Bathing caps; berets; hat frames; headbands; hoods; mantillas; shower caps, Swim Bonnet Cap; skull caps; top hats; turbans; veils; wimples; ascots; babies' pants; bandanas; bath robes; bathing trunks, bathing drawers; bathing suits, swimsuits; beach clothes; belts; bibs, not of paper; boas; bodices; boxer shorts; brassieres; breeches for wear; camisoles; chasubles; clothing for gymnastics; clothing of imitations of leather; clothing of leather; coats; collars; corselets; corsets; cuffs, wristbands; cyclists' clothing; detachable collars; dress shields; dresses; dressing gowns; ear muffs; fur stoles; furs; gabardines; garters; girdles; gloves; heelpieces for stockings; jackets; jumper dresses, pinafore dresses; knickers, panties; knitwear; layettes; leggings . leg warmers; liveries; maniples; masquerade costumes; mittens; money belts; motorists' clothing; muffs; neck scarves mufflers, neck scarfs; neckties; overcoats, topcoats; paper clothing; parkas; pelerines; pelisses; petticoats; pocket squares; pockets for clothing; ponchos; pyjamas; ready-made linings [parts of clothing]; saris; sarongs; sashes for wear; scarves, scarfs; shawls; shirt fronts; shirt yokes; ski gloves; skirts; skorts; sleep

masks; slippers; sock suspenders; spats, gaiters; sports jerseys; sports singlets; stocking suspenders; stockings; stuff jackets; suits; suspenders, braces for clothing; sweat-absorbent stockings; sweat-absorbent underclothing, sweat absorbent underwear; teddies; tights; togas; trouser straps, pants ; underpants; underwear, underclothing; uniforms; waistcoats, waterproof clothing; wet suits for water-skiing; bath sandals; bath slippers; beach shoes; boot uppers; boots; boots for sports; esparto shoes or sandals; fittings of metal for footwear; football shoes, football boots; footwear uppers; galoshes; gymnastic shoes; half-boots; heelpieces for footwear; heels; lace boots; non-slipping devices for footwear; sandals; shoes; ski boots; slippers; inner soles; soles for footwear; sports shoes; studs for football boots; tips for footwear; welts for footwear; wooden shoes. (Class 25)

Retail, online retail, wholesale, import and export services in relation to the sale of non-medicated cosmetics and toiletry preparations, cosmetics, skincare cosmetics, body care cosmetics, cleansers, exfoliators, beauty masks, cosmetic tonics, lotions and creams, moisturising creams, sunscreen creams, hand creams, body creams, night creams, day creams, eye creams, eye washes - not for medical purposes, soaps and gels, bath and shower gels, bath preparations, bath soaps, baths salts, bath bombs, bubble baths, beauty serums, anti-ageing serums, perfumery, fragrances, incense, essential oils, hair oils, bath oils, body oils, face oils, massage oils, facial massage oils, body massage oils, essences, cleansing milk, body milk, moisturising milk, bath milk, beauty milk, makeup, makeup setting sprays, makeup foundations, concealer, lipsticks, lip gloss, lip liners, blushers, mascara, lash extensions, eye shadows, eye liner, bronzers, skin toners, highlighters (make-up), makeup primers, make-up powder, eye make-up, make-up removing preparations, make-up removers, nail cosmetics, nail care products [cosmetics], cosmetic nail preparations, nail polish, nail varnish, nail enamels, nail gels, nail glitters, nail decolorants, nail cream, lotions for strengthening the nails, nail strengtheners, nail hardeners, nail tips, nail whiteners, nail conditioners, false nails, artificial nails, nail care preparations, nail buffing preparations, nail polish pens, nail repair preparations, gel nail removers, nail polish remover pens, nail enamel removers, nail-polish removers, nail varnish removing preparations [cosmetics], nail primer, nail art stickers, nail polishing powder, nail polish top coat, nail polish base coat, adhesives for artificial nails, glue for strengthening nails, adhesives for fixing false nails,

preparations for removing gel nails, glaze activator for strengthening nails, nail manicure products [preparations], nail revitalising lotions [cosmetics], nail treatment gels [cosmetics], hair products, haircare preparations, hair cleaning preparations, hair shampoos, hair conditioners, hair colourings, hair dyes, non-medicated dentifrices, bleaching preparations and other substances for laundry use, cleaning, polishing, scouring and abrasive preparations, baby wipes, wipes incorporating cleaning preparations, moist wipes for sanitary and cosmetic purposes, facial wipes impregnated with cosmetics, bleaching preparations and other substances for laundry use, cleaning, polishing, scouring and abrasive preparations, computer software, hardware and programs, mobile apps, computer software, hardware, programs and mobile apps in relation to jewellery and fashion, e-books, e-books in relation to fashion, encoded gift cards, encoded loyalty cards, computer programs, computer hardware, apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data, recorded and downloadable media, downloadable and electronic publications, printed publications in electronically readable form, downloadable prerecorded audio and audiovisual content, information, and commentary, downloadable electronic books, magazines, newsletters, newspapers, journals, and other publications, downloadable digital media and recordings containing sound, images, text, information, signals or software, downloadable electronic publications of books, audio books, magazines, and journals, electronic bulletin boards, podcasts, video podcasts, webcasts, podcasts, video podcasts and webcasts in relation to fashion, electronic files, data recordings including audio, video, still and moving images and text, DVDs and other digital recording media, computer software and programmes for document creation, production, conversion, recording, indexing, archiving, printing, displaying, viewing, publishing (including electronic publishing), transmission, encryption, management, typography and distribution, sound and video recordings, sound carriers, records, discs, tapes, cassettes, cartridges, cards and other carriers, all bearing or for use in bearing sound recordings, video recordings, data, images, graphics, text, programs or information, CD-ROMs, DVDs, media content, downloadable educational media, webcasts for teaching, instruction, entertainment or educational purposes, smart watches, mobile phone cases, protective covers for smartphones, leather cases for mobile phones, leather cases for smartphones, leather cases for tablet computers, protective flip covers for mobile phones, protective flip covers for tablet computers, eyeglasses, spectacle lenses, spectacle frames, spectacle cases, spectacles,

sunglasses, anti-pollution masks for respiratory protection, dust masks, dust protective masks, filters for respiratory masks, respiratory mask filters [non-medical], respiratory masks, other than for artificial respiration, goggles, protective goggles, dust goggles, safety goggles, precious metals and their alloys, jewellery, precious and semi-precious stones, horological and chronometric instruments, rings (jewellery), engraved and custom made jewellery, including signet rings, gold, silver, platinum signet rings, pendants, medallions, cuff links, rings with gemstones, ornaments (jewellery), necklaces, earrings, bracelets, brooches, bangles, charms (jewellery), pendants, chains of precious metals, locket, key chains of precious metal, jewellery stones of faceted glass, jewellery travel rolls, genuine and costume jewellery, watches, watch bands, straps for wristwatches, watch straps, watch chains, watch springs, watch glasses, watch crystals, watch cases, watches, wristwatches, jewellery articles of precious metals and precious stones, and imitations thereof, leather and imitations of leather, leather pouches, leather straps, leather boxes, leather shoulder belts, bags, luggage and carrying bags, cosmetic bags, handbags, shoulder bags, leather bags, travel bags, work bags, clutch bags, sports bags, gym bags, camping bags, animal carrier bags, feed bags for animals, credit card cases, pocket wallets, purses, collars, leashes and clothing for animals, clothing and costumes for animals, animal apparel, covers and wraps for animals, animal leads, animal harnesses, bits for animals, umbrellas and parasols, bathing caps, berets, hat frames, headbands, hoods, mantillas, shower caps, Swim Bonnet Cap, skull caps, top hats, turbans, veils, wimples, ascots, babies' pants, bandanas, bath robes, bathing trunks, bathing drawers, bathing suits, swimsuits, beach clothes, belts, bibs, not of paper, boas, bodices, boxer shorts, brassieres, breeches for wear, camisoles, chasubles, clothing for gymnastics, clothing of imitations of leather, clothing of leather, coats, collars, combinations, corselets, corsets, cuffs, wristbands, cyclists' clothing, detachable collars, dress shields, dresses, dressing gowns, ear muffs, fur stoles, furs, gabardines, garters, girdles, gloves, heelpieces for stockings, jackets, jumper dresses, pinafore dresses, knickers, panties, knitwear, layettes, leggings . leg warmers, liveries, maniples, masquerade costumes, mittens, money belts, motorists' clothing, muffs, neck scarves mufflers, neck scarfs, neckties, overcoats, topcoats, paper clothing, parkas, pelerines, pelisses, petticoats, pocket squares, pockets for clothing, ponchos, pyjamas, ready-made linings [parts of clothing], saris, sarongs, sashes for wear, scarves, scarfs, shawls, shirt fronts, shirt yokes, ski gloves, skirts, skorts, sleep masks, slippers, sock suspenders, spats,

gaiters, sports singlets, stocking suspenders, stockings, stuff jackets, suits, suspenders, braces for clothing, sweat-absorbent stockings, sweat-absorbent underclothing, sweat absorbent underwear, teddies, tights, togas, trouser straps, pants, underpants, underwear, underclothing, uniforms, waistcoats, waterproof clothing, wet suits for water-skiing, bath sandals, bath slippers, beach shoes, boot uppers, boots, boots for sports, esparto shoes or sandals, fittings of metal for footwear, football shoes, football boots, footwear uppers, galoshes, gymnastic shoes, half-boots, heelpieces for footwear, heels, lace boots, non-slipping devices for footwear, sandals, shoes, ski boots, slippers, inner soles, soles for footwear, sports shoes, studs for football boots, tips for footwear, welts for footwear, wooden shoes; advertising, marketing and promotional services; digital marketing services; none of the aforesaid services relating to advertisements in connection with home interiors, wellness and cooking; none of the aforesaid services relating to advertising, marketing and promotion of restaurants, food, drinks and recipes. (Class 35)