O/0533/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00004016958
BY XRPAYNET GLOBAL LIMITED TO REGISTER:

Volta Card

VOLTA CARD

VOLTACARD

volta card

voltacard

(SERIES OF FIVE)

AS TRADE MARKS IN CLASSES 9, 18, 35 & 36

AND

IN THE MATTER OF THE OPPOSITION THERETO
UNDER NO. 448342 BY
VOLT TECHNOLOGIES HOLDINGS LIMITED

BACKGROUND AND PLEADINGS

1. On 21 February 2024, XRPayNet Global Limited ("the applicant") applied to register the series of trade marks shown on the cover page of this decision in the UK ("the application"). The application was published on 29 March 2024 and registration is sought for goods and services set out in the **Annex** of this decision.

2. On 28 June 2024, the application was opposed by VOLT TECHNOLOGIES HOLDINGS LIMITED ("the opponent"). The opposition is based on sections 5(2)(b) and 5(3) of the Trade Marks Act 1994 ("the Act"). Both grounds are reliant on the following trade marks:

   VOLT
   UK registration no. 3734879
   Filing date 20 December 2021; registration date 7 April 2023
   Relying on all goods and services, namely:

Class 9:	E-commerce and e-payment software; payment software; banking software; computer software and hardware for facilitating payment transactions by electronic means; application software; application software for smartphones, tablets and wireless devices; computer terminals for banking purposes; payment terminals, money dispensing and sorting devices; apparatus for electronic payment processing; electronic payment terminals and devices; electronic and magnetic ID cards for use in connection with payment services; banking cards [encoded or magnetic].
Class 36:	Banking services; electronic banking services; online and internet banking; computerised banking services; mobile banking services; payment processing; processing of electronic payments; processing of payments for banks and individuals;

payment card services; information, advice and consultancy in relation to the aforementioned services.

Class 42: Design and development of payment processing software; payment and banking software creation, development, installation and maintenance; database design and development; providing temporary use of on-line non-downloadable software for processing electronic payments; hosting platforms on the internet; information, advice and consultancy in relation to the aforementioned services.

("the opponent's first mark"); and

volt.io
UK registration no. 3734873
Filing date 20 December 2021; registration date 7 April 2023
Relying on all goods and services, being identical to those relied upon under the opponent's first mark
("the opponent's second mark").

3. By virtue of relying on section 5(2)(b) of the Act, the opponent's position is that the marks at issue are similar and that the goods and services at issue are identical and/or similar. As such, it is claimed that there exists a likelihood of confusion on the part of the relevant public.

4. Turning to the section 5(3) ground, the opponent claims that its marks enjoy a reputation in the UK and that use of the marks in the application would lead consumers to believe that the marks at issue were all used by the same undertaking or think that there was an economic connection between them. The opponent's position is that this would mean that use of the application would, without due cause, take unfair advantage of and/or be detrimental to the distinctive character and/or repute of the opponent's marks.

5. The applicant filed a counterstatement wherein it denied all of the claims against it.

6. The applicant is unrepresented and the opponent is represented by Bird & Bird LLP. Only the opponent filed evidence. No hearing was requested and neither party filed written submissions in lieu of the same. This decision is taken after careful consideration of the papers.

7. The provisions of the Act relied upon in these proceedings are assimilated law, as they are derived from EU law. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 (as amended by Schedule 2 of the Retained EU Law (Revocation and Reform) Act 2023) requires tribunals applying assimilated law to follow assimilated EU case law. That is why this decision refers to decisions of the EU courts which predate the UK's withdrawal from the EU.

EVIDENCE

8. The opponent's evidence came in the form of two witness statements. The first was that of Ms Irina Chuchkina dated 17 January 2025.[1] Ms Chuchkina is the Chief Marketing Officer of the opponent and her statement is accompanied by 11 exhibits, being those labelled IC1 to IC11. It was filed in order to prove the existence of a reputation in the opponent's marks. The second statement was that of Mr Graham Baxter dated 20 January 2025. Mr Baxter is the Senior Vice President of the opponent and his evidence is unaccompanied and, much like Ms Chuchkina's statement, it was filed in order to demonstrate the reputation held in the opponent's marks.

[1] The body of the statement refers to the surname of 'Chuckina' whereas the heading of the statement, its signature page and exhibit cover pages use the spelling 'Chuchkina'. As such, it is the latter spelling that I will adopt here.

9. I do not intend to summarise the opponent's evidence in full here. However, I confirm that I have taken all filed documents into account and will summarise them to the extent that I deem necessary below.

DECISION

Section 5(2)(b): legislation and case law

10. Section 5(2)(b) states that:

> "(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 or association with the earlier trade mark."

11. 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."

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

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

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

(aa) a comparable trade mark (EU) or a trade mark registered pursuant to an application made under paragraph 25 of Schedule 2A which has a valid claim to seniority of an earlier registered trade mark or protected international trade mark (UK) even where the earlier trade mark has been surrendered or its registration has expired;

(ab) a comparable trade mark (IR) or a trade mark registered pursuant to an application made under paragraph 28, 29 or 33 of Schedule 2B which has a valid claim to seniority of an earlier registered trade mark or protected international trade mark (UK) even where the earlier trade mark has been surrendered or its registration has expired.

[…]

(2) References in this Act to an earlier trade mark include a trade mark in respect of which an application for registration has been made and which, if registered, would be an earlier trade mark by virtue of subsection (1)(a) or (b), subject to its being so registered."

13. Given their filing dates, the opponent's marks qualify as earlier trade marks in accordance with the above provisions. As neither mark completed its registration process more than five years prior to the filing date of the application, the use provisions set out in section 6A of the Act do not apply. The consequence of this

is that the opponent may rely on all of the goods and services identified in its notice of opposition.

14. 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, in certain circumstances, be dominated by one or more of its components;

(f) and beyond the usual case, where the overall impression created by a mark depends heavily on the dominant features of the mark, it is quite possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

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

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

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

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

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

Comparison of goods and services

15. The applicant's goods and services are set out in the Annex of this decision whereas the opponent's goods and services are set out at paragraph 2 above.

16. When making the comparison, all relevant factors relating to the goods and services in the specifications should be taken into account. In the judgment of the

Court of Justice of the European Union ("CJEU") in *Canon*, Case C-39/97, the court stated at paragraph 23 that:

> "Those factors include, inter alia, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary".

17. 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.

18. In *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T- 133/05, the General Court 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 fur Lernsysteme v OHIM- Educational Services (ELS)* [2002] ECR II-4301, paragraph 53) or where the goods designated by the trade mark application are included in a more general category designated by the earlier mark."

<u>Class 9</u>

Magnetic payment cards; Encoded prepaid payment cards; Credit cards; Encoded prepaid credit cards; Telephone credit cards; Electronic and magnetic ID cards for use in connection with payment for services; Payment cards being magnetically encoded; Credit cards [magnetic]; Magnetic credit cards; Credit cards [encoded]; Encoded credit cards; Cash cards [encoded]; Credit cards with a magnetic strip; Coded bank cards; Cash cards [magnetic].

19. All of the above terms are various types of cards used for payments. I find that these all fall within either "electronic and magnetic ID cards for use in connection with payment services" or "banking cards [encoded or magnetic]" in the opponent's specifications. These goods are, therefore, identical under the principle outlined in *Meric*.

Terminals for electronically processing credit card payments; Credit card terminals; Card readers for credit cards; Electronic payment terminal; Card readers for magnetic cards; Electronic payment terminals; Secure digital (SD) card readers; Electronic machines for reading credit cards.

20. The above terms can all be said to be types of electronic devices for the processing of payments. As such, I find that they fall within the opponent's term of "apparatus for electronic payment processing". They are, therefore, identical under the principle outlined in *Meric*.

Credit card encoding machines.

21. I am of the view that the above term does not cover payment processing devices but those used to encode cards with the relevant information/data. Such a product is not, therefore, an "apparatus for electronic payment processing". That being said, I find that, instead, it falls within the opponent's term of "computer terminals for banking purposes". I say this because encoding a credit card is clearly use of a terminal for banking purposes. Therefore, I find that these goods are identical under the principle outlined in *Meric*.

Payment software; Online payment software; Software for facilitating secure credit card transactions.

22. The first term listed above appears in the opponent's specifications too so is clearly self-evidently identical. The other goods both fall within the opponent's terms "payment software" or "banking software". As a result, those goods are identical under the principle outlined in *Meric*.

Credit card cases [fitted holders].

23. The above term is not a credit card but a case for carrying said card. While the opponent does not have a term covering such goods, I consider the closest comparator in the opponent's specifications is "banking cards [encoded or magnetic]". These goods are plainly different in nature, method of use and purpose. As for trade channels, I have nothing before me to suggest that a banking provider who is responsible for a credit card would also provide a credit card case. In respect of complementarity, I accept that the opponent's good is important to the above term but I see no reason why consumers would believe that they originate from the same undertaking.[2] Lastly, I appreciate that the users overlap but this is not

[2] *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)***,** Case T-325/06

sufficient by itself to warrant a finding of similarity. Overall, I find these goods to be dissimilar.

Class 18

Credit card wallets.

24. I am of the view that my findings in the preceding assessment for the applicant's "credit card cases [fitted holders]" can be said to directly apply here. As such, I find that these goods are dissimilar.

Class 35

Credit card registration services; Administrative services relating to credit card registration.

25. While the opponent's specifications do not include any counterpart to the above services, they do include "banking cards [encoded or magnetic]" and "payment card services", both of which can cover credit card goods/services. The above services, whilst different in nature, method of use and purpose with the opponent's terms, will be provided by the undertaking that issues the credit cards or provides the card's service. Further, someone requiring the above services will require the actual credit card and the associated service. Lastly, the goods and services are complementary to a degree as a credit card or its associated service will be important to the above services, and vice versa. The relationship between these goods and services is such that consumers will believe them to be the responsibility of the same undertaking. As a result, I find that these goods and services are similar to a medium degree.

Retail of third-party pre-paid cards for the purchase of telecommunication services.

26. It is my understanding of the above term that it relates to the retail of pre-paid cards that are subsequently used to top up a user's phone credit balance or those used to make long distance phone calls whilst abroad, for example. The retail of such goods is not likely to be provided by banking providers and neither will it be offered by credit card providers. That being said, I do note that the opponent's specification includes the term "payment card services". This is a broad term and not limited in any way so can, therefore, include services relating to payment cards that are used for telecommunications. As a result, whilst I find that the opponent's term differs in nature, method of use and purpose to the applicant's service, I do consider that there exists an overlap in trade channels and user. I say this because, in this context, the provider of a payment card service for use in telecommunications would also retail in the same. Further, such services will be sought by the same user. In addition, there is a degree of complementarity on the basis that the services are important to one another and their relationship is such that consumers will believe that the retailer was the same undertaking that provide the card services. As a result, I find that these services are similar to a medium degree.

<u>Class 36</u>

Credit card and payment card services; Bank card, credit card, debit card and electronic payment card services; Debit card payment services; Credit card payment processing; Credit card payment services; Payment card services; Processing of debit card payments; Processing of credit card payments; Payment transaction card services; Credit card and debit card services; Charge card and credit card services; Credit and debit card services; Debit card services; Electronic credit card transactions; Issuance of credit and debit cards; Electronic credit card transaction processing; Credit and cash card services; Credit card verification; Credit card services; Credit card transaction processing services; Processing of payments in relation to credit cards; Debit card validation services; Processing of electronic credit card transactions; Bank *cheque card services; Cash card services; Credit card validation services; Processing debit card transactions for others; Credit cards (Issuance of -); Issuance of credit cards; Bank card services; Cheque guarantee card services; Processing credit card transactions for others; Financial services related to the issuance of bank cards and debit cards; Provision of credit card services; Processing of payments in relation to charge cards; Provision of credit cards; Payment processing; Processing electronic payments made through prepaid cards; Credit cards services; Management of credit card services; Credit card management services; Contactless payment services; Issuing credit cards; Issuing of credit cards; Cash replacement rendered by credit card; Issue of credit cards; Processing payments made by charge cards; Credit card advisory services; E-wallet payment services; Charge card services; Processing charge card transactions for others; Automated banking services relating to credit card transactions; Credit card protection and registry services; On-line bill payment services; Bill payment services; Provision of information relating to credit card transactions; Credit services for payment of insurance premiums; Credit services for the payment of insurance premiums; Payment processing services; Automated payment; Processing of electronic check payments; Acceptance of bill payments; Processing of payment transactions via the Internet; Payment and receipt of money as agents; Tax payment processing services; Processing of electronic debit transactions; Automated banking services relating to charge card transactions; Conducting cashless payment transactions; Electronic payment services; Automated payment of accounts; Financial services for the management of credit cards; Clearing services for payment transactions; Electronic debit transactions; Financial services relating to credit cards; Card accessed banking services; Telegraphic remittance [payment] services; Electronic wallet services (payment services); Processing of electronic payments; Electronic processing of payments; Debit account services; Check payment guarantee services; Financial transfers and transactions, and payment services; Debit collection.*

27. The above terms cover a wide range of different services offered in relation to banking, payment cards or processing of payments. The above services can all,

therefore, be said to fall within the opponent's terms of "banking services", "payment processing" and/or "payment card services" in the opponent's specifications. As a result, I find that these services are identical under the principle outlined in *Meric*.

Issuing of payment gift cards; Issuing electronic payment cards in connection with bonus and reward schemes; Issuance of prepaid gift cards; Issue of phone card services; Issuing of payment gift vouchers; Provision of prepaid cards and tokens.

28. All of the above terms can be said to relate to cards used for payment, be that as gift cards or rewards from bonus schemes. On this point, I appreciate that some terms above do not specifically relate to 'cards'. However, I am of the view that it is common for gift 'vouchers' to be provided in card form. In considering the above, I find that they all fall within the opponent's term of "payment card services". I say this for two reasons. Firstly, the opponent's term is not limited in any way and can, therefore, cover the issuance of any type of payment card. For example, the payment card service can relate to phone cards or cards awarded from bonus schemes. Secondly, I consider that the issuance of the cards themselves will be included within the overall payment card services. As such, I find that these services are identical under the principle outlined in *Meric*.

Insurance services relating to credit cards.

29. It is my understanding that the provider of the credit card service, be that under the opponent's "banking services" or "payment card services", would offer insurance in relation to the same. For example, it may offer protection to users in the event that unforeseen circumstances prevent them from being able to repay their credit card balance. Such services will plainly be sought by the user of the opponent's terms. Therefore, while the nature, method of use and purpose of these services differ, they do overlap in trade channels and user. Lastly, I consider that there is a degree of complementarity between the services on the basis that the opponent's

services are important to the insurance services relating to the same. The relationship between these services is such that the users would believe them to be the responsibility of the same undertaking. Overall, I find that these services are similar to a medium degree.

Negotiation for the collection of cheques and bills of payment.

30. I consider it likely that the above service is one that is used when seeking the repayment of a debt. While a banking service provider will attempt to recover the debt on its own, when it comes to the negotiation of the same, it is my understanding that this would be outsourced to a recovery agent. Therefore, I do not consider that the above service is one that is provided by a banking service provider or one that processes payments or provides credit card services.

31. Despite the above, I note that the opponent's specifications include the term "information, advice and consultancy in relation to the aforesaid services". Therefore, the opponent's specification covers consultancy in respect of banking services. It is my view that the provider of such services would offer consultancy or advice to the banking service provider on the risks and rewards of the debt recovery procedure. This is the same undertaking that provides the above service of the applicant, leading to an overlap in trade channels. That being said, the services differ in nature, method of use and purpose. As for user, someone looking for a banking service is unlikely to be the user of the above service, which will instead be used by the banking service provider itself. On this point, I have nothing before me to suggest that the above services would attract a wider user base that could be said to overlap with the opponent's service. Lastly, I do not consider that the services are in competition and neither do they share a complementary relationship given the difference in user. Overall, I do not consider that the overlap in trade channels is sufficient, by itself, to support a finding of similarity. As a result, I find them dissimilar.

Conclusion of the goods and services comparison.

32. Under the present ground, a likelihood of confusion can only exist where there is at least some similarity between goods and services.[3] This means that as a result of my findings above, the present ground fails against the following goods and services:

Class 9:	Credit card cases [fitted holders].
Class 18:	Credit card wallets.
Class 36:	Negotiation for the collection of cheques and bills of payment.

The average consumer and the nature of the purchasing act

33. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purpose of assessing the likelihood of confusion, it must be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods or services in question: *Lloyd Schuhfabrik Meyer,* Case C-342/97.

34. In *Iconix Luxembourg Holdings*, 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;

[3] *eSure Insurance v Direct Line Insurance,* [2008] ETMR 77 CA

(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;

(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.

35. I find that the average consumer for the goods and services at issue will be made up of members of the general public at large and business users. I reach the latter finding because a number of the goods and services at issue are very broad and may, therefore, cover those that relate to more specialised banking services that are commonly aimed at the business user.

36. For the most part, the goods and services at issue will be selected visually. This is on the basis that the undertakings that offer finance related goods and services commonly offer them via online, television or physical advertisements. The consumer will view these and either select the appropriate goods and services online or in banks where the goods/services will be listed on signs or pamphlets. In such a scenario, I do not discount the fact that the aural component plays a role by way of word of mouth recommendations or advice from assistants. Additionally, I accept that some of the broader services that may cover more specialised financial services will rely more heavily on the aural component by way of detailed discussions with sales staff. Having said that, the visual component will, in my view, play an equal role as those discussions are likely to take place after the consumer has viewed the goods and services on advertisements, signs or on lists.

37. The goods and services will, in my view, be selected relatively infrequently and, as far as I am aware, will be relatively inexpensive at the outset, or even free (for example, where a consumer signs up for a credit card, there may be interest payments required but the card and service itself is free). While that may be the case, the goods and services all relate to finance so the consumer will still consider several factors when making their selections. For example, services that relate to credit cards will involve considerations as to security, interest rates charged and credit limits. Additionally, for payment processing services, the consumer will consider the speed of the service, whether there is any transaction fee, reliability and, again, security. These considerations will, in my view, attract a medium degree of attention. That being said, I consider that the broad nature of some services mean that they will inevitably cover those that attract a relatively high (but not the highest) degree of attention. For example, the terms “banking services” at large may include services that deal with high rates of interest, considerably large amounts of money or significant investments. As a result, these services will naturally result in a more involved approach by the consumer be it the general member of the public or the business user.

Comparison of the marks

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

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

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

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

41. The respective trade marks are shown below:

The opponent's marks	The application
VOLT ("the opponent's first mark")	Volta Card VOLTA CARD

volt.io ("the opponent's second mark")	VOLTACARD volta card voltacard (series of five)

42. The applicant's marks are all variants on the words 'Volta Card'. Even where these words are conjoined (as is the case for the third and fifth marks in the application), consumers will readily identify the mark as being 'Volta Card'. Further, the marks all differ in their use of case but, as word only marks, they are each capable of being used in either upper case, lower case or any customary combination of the two. As a result, I see no issue in selecting one of the marks as the basis for my comparison simply because any finding in respect of one mark would be applicable to them all. Going forward, I will simply refer to the mark 'VOLTA CARD' and will refer to this as 'the applicant's mark'.

<u>Overall impression</u>

43. The applicant's mark is a word only mark that consists of the words 'VOLTA CARD'. For reasons that I will come to discuss below, 'CARD' will play a lesser role. This means that the overall impression of the applicant's mark is dominated by the word 'VOLTA'.

44. The opponent's first mark is a word only mark consisting solely of 'VOLT'. There are no other elements that contribute to the overall impression of the mark, which lies in the word itself. The opponent's second mark is also a word only mark consisting of 'volt.io'. For reasons that I will come to discuss below, I find that '.io' plays a lesser role, meaning that the overall impression of this mark is dominated by the word 'volt'.

Visual comparison

45. Visually, the opponent's first mark and the applicant's mark share the letters 'VOLT'. This forms all bar one letter of the dominant element of the applicant's mark and is the sole element in the opponent's mark. The marks differ in the presence of the letter 'A' in 'VOLTA' and the word 'CARD' in the applicant's mark. While 'CARD' may play a lesser role, it is still a point of visual difference. That being said, bearing in mind the overall impressions of the marks, I find that they are visually similar to between a medium and high degree.

46. As for the opponent's second mark, this shares the same points of similarity and difference as discussed above. In addition, the opponent's mark includes the element '.io' after 'volt'. Much like 'CARD', this plays a lesser role but is still a point of visual difference. Overall, I find that these marks are visually similar to a medium degree.

Aural comparison

47. I do not consider that consumers will look to articulate the '.io' element in the opponent's second mark. I say this because it simply acts as an indicator of the domain of the website for VOLT. Therefore, I consider that both of the opponent's marks will be pronounced simply as 'VOLT'. As for the applicant's mark, I am of the view that despite 'CARD' being descriptive for a range of goods and services, it will still be pronounced. Therefore, the applicant's mark will be pronounced in full, as 'VOLT-UH-CARD'. Despite the difference in two syllables, the shared use of 'VOLT' (particularly given its placement at the beginning of the applicant's mark),[4] still contributes to the aural similarity. Overall, I find that the marks are aurally similar to a medium degree.

[4] As per *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02, the beginnings of marks tend to have more impact than their ends.

48. Alternatively, if '.io' is pronounced in the opponent's second mark, then the mark will consist of four syllables, being 'VOLT-DOT-EYE-OH'. These additional points of difference, when compared with 'VOLTA CARD' will lessen the level of similarity from that concluded above to between a low and medium degree.

Conceptual comparison

49. As above, the element '.io' in the opponent's second mark is merely a reference to its domain and consumers will identify it as such.[5] It will, therefore, have no conceptual impact on the trade mark. As a result, the concept of the opponent's second mark lies in the word 'VOLT'. As 'VOLT' is the sole element of the first mark, I can consider the concepts of these marks together. 'VOLT' is a common word used in the English language that the majority of consumers will understand as describing units of electricity.[6] This will apply even though the goods and services at issue do not obviously relate to electricity.[7] As a result, this is the meaning that will be associated with the opponent's marks.

50. In considering the applicant's mark, I find that 'CARD' will be understood as descriptive of some of the goods and services for which the mark was applied for, namely those that are either physical banking cards or credit card services. Even where it is not directly descriptive, the services mostly relate to banking and payments which are both so commonly associated with bank, debit or credit cards that it will still lead consumers to understanding 'CARD' as being allusive. It is for this reason that I found 'CARD' to play a lesser role in the overall impression of the mark. As for 'VOLTA', I appreciate that this has a meaning in that 'a volta' is a *turn* or a *plot twist* in literature or poetry or a reference to the Italian physicist Alessandro

[5] It is noted that '.io' is the domain for the British Indian Ocean Territory but this will not be widely known by consumers.
[6] While I appreciate that 'VOLT', aurally, sounds much like 'VAULT', being where money is stored, I do not consider that a significant proportion of consumers would make this connection
[7] I appreciate that there are electronic devices and references to electronic payment processing in the opponent's specification. However, I do not consider that the connection to electricity will be made between the mark and the goods/services in the same way as, say, electronic charging products or electric vehicles would.

Volta. However, I have nothing before me to suggest that either of these will be known to a significant proportion of consumers in the UK. In the present case, whilst the applicant's goods and services do not relate to electricity, I am of the view that an allusion to the concept of 'VOLT' would be immediately graspable to a significant proportion of average consumers. I say this on the basis that 'VOLT' is, as above, a common word in the English language and because 'VOLT' sits wholly within 'VOLTA', consumers will readily make this connection.

51. In comparing the concepts of the marks, the connection to electricity via the use of or allusion to 'VOLT', will dominate. As such, it follows that they share a considerable point of similarity. As for the word 'CARD' in the applicant's mark and the element '.io' in the opponent's second mark, these will have a very limited impact on the overall concept of the marks for the reasons set out above. They will, therefore, do little to lessen the conceptual similarity between the marks which, in my view, sits at a high degree.

Distinctive character of the opponent's marks

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

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

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

53. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods or services, to those with high inherent distinctive character, such as invented words which have no allusive qualities. The distinctiveness of marks can be enhanced through use, and I note that the opponent has filed evidence of use. I will, therefore, consider whether the opponent's evidence is sufficient to give rise to a finding that the distinctiveness of its marks has been enhanced through use. Before doing so, I will consider the inherent position.

54. The opponent's marks are both word only marks, being 'VOLT' and 'volt.io'. As discussed above, '.io' will be seen as a reference to the domain used and given no trade mark significance. Therefore, the distinctiveness of both marks lies in the word 'VOLT'. This is an ordinary dictionary word and while it is not connected to the goods and services at issue, it is not particularly remarkable from a trade mark perspective. Therefore, I find that the inherent distinctiveness of the marks sits at a medium degree.

55. I turn now to consider whether there exists an enhanced degree of distinctiveness. I remind myself that the opponent's evidence stems from two separate witness

statements which cover distinct points. Ms Chuchkina's evidence covers the general outward use of the marks whereas Mr Baxter's evidence introduces specific figures in support of the claimed use. I do not intend to summarise each of the opponent's witness statements separately but will, instead, incorporate them both into the summary below.

56. The opponent's evidence confirms that it was founded in 2019 and that it operates as a financial technology business, specialising in open banking payment processing services and related software and payment goods. In terms of the actual products it offers, it is noted that this includes instant account-to-account payment options, virtual IBANs and the provision of 'Volt accounts' that enable instant customer refunds and payouts. An example of its instant payout feature is provided in evidence by way of a printout of a checkout page for the retailer 'FARFETCH' which shows 'VOLT' as a payment option for the transaction.[8] While the screenshot provided is undated, it appears to have been provided to demonstrate the nature of 'VOLT's' use as opposed to an example of actual use of said services.

57. The evidence goes on to explain that the opponent's payment infrastructure is currently integrated with 1,900 banks, including Barclays, Lloyds, Halifax, NatWest, Monzo and Revolut. In addition, the evidence confirms that the opponent has partnered with key players in the payment industry, such as Worldpay and Worldline, which provides over 600 merchants global access to the opponent's payment structure. The evidence sets out that this is the 'current' position (likely being around the time the evidence was filed in January 2025) meaning that it may not necessarily have been the case as at the relevant date in these proceedings, being 21 February 2024. That being said, the reference to 1,900 banks and 600 merchants is significant and I consider it reasonable to suggest that, as at the relevant date, a fair proportion of these banks/merchants were using the

[8] IC1

opponent's payment infrastructure. I say this because it seems highly unlikely that a total of 1,900 banks would have integrated the service over the course of one year.

58. My primary issue with the evidence discussed in the preceding paragraph is that while the banks listed operate in the UK, it is not confirmed whether the reference to a total of 1,900 banks covers banks within the UK or internationally. For example, it is my understanding that Barclays also operates outside of the UK, so it is reasonable to suggest that some of the banking custom originates from elsewhere. Additionally, the reference to 600 merchants is expressly confirmed as providing merchants 'global' access to the opponent's payment structure. These points are relevant here because the issue as to enhanced distinctiveness is to be based on the understanding of the UK-based consumer.

59. In terms of the opponent's website, the opponent has provided a range of screenshots from 'volt.io'.[9] These are screenshots obtained from the internet archive facility, the Wayback Machine, and are from various dates between 2020 and 2023.

60. In respect of its financial performance, the evidence includes figures relating to the opponent's total payment volume (that measures the gross value of payments successfully processed through its services over the course of a year) and its actual revenue. The figures provided cover 2020 to 2024 but given that the relevant date in these proceedings sits towards the beginning of 2024, it is likely that the majority of the 2024 figures fall after it. As there is no way for me to accurately determine the volume/revenue prior to the relevant date, I consider it appropriate to discount it altogether. That being said, it is likely that the total figures sit slightly above the figures I provide here and I will bear this in mind in making my overall assessment.

[9] IC2

61. In respect of its total payment volume, I note the figures are as follows:

Year	Total Payment Volume (£)
2020	237,630
2021	27,244,940
2022	183,438,350
2023	622,208,030
Total	**833,128,950**

62. As for its revenue, this is as follows:

Year	Revenue (£)
2020	18,450
2021	480,410
2022	3,535,200
2023	12,866,760
Total	**16,900,820**

63. I note that evidence of an award provided in 2024 is discussed but it is not clear when this award was granted.[10] Further, given that the relevant date sits at the beginning of 2024, I am not convinced that it would have been awarded prior to that date meaning that the award is unlikely to be relevant here.

64. In terms of press coverage, a number of articles are provided wherein VOLT is discussed.[11] The first is an article from Forbes which is not dated itself but does show that it was updated on the relevant date. Regardless of when the article was actually published, Forbes is, as far as I am aware, an American publication. This is supported by the fact that the updated date of the article makes reference to the

[10] IC3
[11] IC4

time of the update, being 10:05am EST, indicating the Eastern Standard Time, which is an American time zone. In addition, the article refers to Silicon Valley (a location in the USA) and figures in US dollars. As a result, I do not consider this article is of any assistance here. Lastly, it is noted that the article makes reference to partnerships between the opponent and companies in both Australia and Brazil.

65. It is noted that there are a range of other articles provided but these either are dated after the relevant date or are undated but relate to awards/rankings for 2024 so, again, are likely to have been published after the relevant date. In addition, the one article from prior to the relevant date (from techcrunch.com) refers to figures in US dollars so it is likely to be aimed at the US market.

66. In addition to the above, press coverage regarding VOLT's client relationships is provided in evidence.[12] Again, some of these articles are from after the relevant date or appear to be from US-based publications (one even referring to the New York Stock Exchange). There are, however, some articles that confirm partnerships with third party companies, including a partnership with Worldline in October 2021 (which affirms the evidence I have summarised at paragraph 57 above)[13] as well as a partnership with Tazapay, which is aimed to introduce open banking capabilities across the UK and Europe.

67. In respect of its promotional activities, the opponent has provided its advertising spend for the years 2020 to 2023.[14] This is as follows:

Year	**Marketing/Advertising Spend (£)**
2020	43,970
2021	358,410

[12] IC5
[13] This seemingly comes from a UK-based website on the basis that it the website is in partnerships with the UK Government's Department for Business & Trade.
[14] For the same reasons discussed above, I have discounted the 2024 figures but accept that the actual figures are likely to be slightly in excess of those provided here.

2022	616,290
2023	785,130
Total	**1,803,800**

68. To support the above, the opponent confirms that in July 2021, it ran a 9-month marketing campaign. This is shown in evidence as reaching an audience of over 67.7 million readers.[15] In addition, coverage pieces were published in both UK-based and US-based third-party publications.[16] From this, I take it to mean that the advertising spend is global, as opposed to being UK-focused.

69. There is additional evidence provided that purports to demonstrate the opponent's advertising activities. This includes promotion via its own Content Hub,[17] posts on LinkedIn[18] and YouTube[19] and participation in a number of podcasts,[20] one of which was viewed by over 1,800 people. This evidence is noted but it is not confirmed how this specifically relates to the UK market. For example, the 1,800 views of the 'UNCAGED' podcast are shown as being views on YouTube. The printout showing this is dated 15 January 2025 so some of these views could have come after the relevant date. Further, the views are not confirmed as being views from consumers in the UK. As a result, I am unable to accurately determine the reach of any of this evidence across the UK.

70. Taking all of the above into account, it is clear that the opponent operates a sizeable business. The evidence also confirms that the opponent's services are integrated within a range of UK-based banks such as Lloyds, Halifax, NatWest and Monzo. These are large banking providers and having services within such banking institutions suggests to me that the opponent clearly operates in the UK. That being said, there is no indication as to the size of the opponent's business operation

[15] IC6
[16] IC7
[17] IC8
[18] IC9
[19] IC10
[20] IC11

within the UK. While the opponent may be a company based and founded in the UK, the total turnover volume or revenue are not expressly confirmed as being applicable solely to activities in the UK. If it was the case that the supporting evidence covered solely UK use, then I consider it reasonable to infer that the figures provided were attributable to the UK. However, as I have discussed at paragraphs 58, 64 to 66 and 68 to 69, the evidence includes a range of coverage that either expressly covers use in other jurisdictions (such as the USA, Europe, Australia and Brazil) or is insufficiently vague so as to prevent me from being able to attribute it to use or coverage in the UK market. As a result, I am not satisfied that I can attribute the overall evidential picture to use within the UK.

71. In considering the entirety of the evidence, I accept that it suggests an intense level of use from 2020 onwards. However, as set out above, I have nothing to assist me in determining how this can be said to apply to the UK. There is clearly some use in the UK, but it is just not clear at what volume and, further, the use is short lived, covering just three years of business activity. On this point, I accept that short term use can be acceptable if the level of use is intensive and while the overall picture may suggest this, I repeat the fact that I am not satisfied that the use relates solely to the UK.

72. As a result, and without anything sufficiently solid before me to allow me to accurately assess the UK use, I consider it unreasonable for me to infer that it is sufficient to have enhanced the distinctive character of the mark. As a result, I find that the inherent position applies.

Likelihood of confusion

73. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other, while indirect confusion is where the average consumer realises the marks are not the same but puts the similarity that exists between the marks and the goods and services down to the responsible

undertakings being the same or related. There is no scientific formula to apply in determining whether there is a likelihood of confusion; rather, it is a global assessment where a number of factors need to be borne in mind. The first is the interdependency principle i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective goods and services and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the earlier marks, the average consumer for the goods and services and the nature of the purchasing process. In doing so, I must be alive to the fact that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them that they have retained in their mind.

74. I found that the goods and services at issue to be either identical or similar to a medium degree. The average consumer base for the goods and services at issue will be members of the general public and business users who will select them via primarily visual means (though not discount an aural component) whilst paying a medium degree of attention. However, some goods and services may be selected after equally considering the visual and aural component and, further, such services may attract a higher (but not outright high) degree of attention. In respect of the similarity of the marks, I have found the marks in the application to be visually similar to between a medium and high degree with the opponent's first mark and visually similar to a medium degree with the opponent's second mark. Both marks are aurally similar to a medium degree (or, in the case of the opponent's second mark only, similar to between a low and medium degree if '.io' is pronounced) and conceptually similar to a high degree with the marks in the application. Lastly, I concluded that the opponent's marks enjoy a medium degree of inherent distinctiveness.

75. Taking all of the above factors into account and bearing in mind the principle of imperfect recollection, I consider that the marks at issue will be misremembered and/or inaccurately recalled for one another. As set out above, beginnings of marks

tend to carry the biggest impacts and, in the present case, all marks share an identical four letter string at their beginning. In addition, the dominant elements of all marks share a connection to electricity via 'VOLT'. It is this shared conceptual hook that will result in consumers overlooking the inclusion of the letter 'A' in 'VOLTA' in the applicant's mark, especially given that it is subsumed into the middle of the applicant's mark as a whole. In respect of the word 'CARD', I appreciate that this will not be overlooked outright (and contributes to the fact that 'A' sits within the middle of the applicant's mark). However, it is the dominant elements of the marks at issue that the consumer will seek to fix their recollection on. As such, when confronted with the marks at issue, the consumers will misremember which mark included the word 'CARD' and which did not. I find that this is especially the case given that the goods and services at issue relate to banking. While not all of the goods and services directly relate to cards, they are those that will commonly be associated with something like a credit card, charge card or debit card. In addition, I am of the view that the reference to the domain in the opponent's second mark will also be overlooked and will not take away from the findings made here. Consequently, I find that there exists a likelihood of direct confusion between the marks. For the avoidance of doubt, I find that due to the shared beginnings of the marks and the shared conceptual hook, this applies regardless of the level of attention paid.

76. 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, wherein Mr Iain Purvis Q.C., as the Appointed Person, explained that:

> "16. Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different from the earlier mark. It therefore requires a mental

process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: 'The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark'.

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

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

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

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

77. 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 whereby indirect confusion occurs.

78. As set out above, indirect confusion exists where consumers notice the differences between marks but still consider that they originate from the same or economically linked undertaking. That being said, it is not always the case that all differences will be noticed. For example, some differences may be small and still misremembered even when considering indirect confusion whereas other differences may be noticed and viewed as logical indicators of a sub-brand. I consider that this is the case here. I say this because I still consider that the letter 'A' in the middle of the marks would be overlooked when the consumer is confronted with both parties' marks (again, bearing in mind the principle of imperfect recollection). The main point of difference at issue here is, therefore, the word 'CARD'. In my view, this will be readily identified as an indicator of a brand extension or sub-brand of 'VOLT' that offers products and services related to various types of cards that can be obtained via the range of banking services offered. Consequently, I find that there exists a likelihood of indirect confusion. For the same reasons given above, I find that this applies regardless of the level of attention paid by consumers.

79. In addition to the above, and for the avoidance of doubt, I am of the view that the findings reached in the preceding paragraph can be said to equally apply in the event that the '.io' element is noticed and used to assist the consumer in remembering the applicant's mark and the opponent's second mark for one another.

79. The section 5(2)(b) ground partially succeeds and I will now proceed to consider the section 5(3) ground.

Section 5(3)

80. Section 5(3) of the Act states:

> "5(3) A trade mark which –

is identical with or similar to an earlier trade mark, shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the United Kingdom (or, in the case of a European Union trade mark or international trade mark (EC), in the European Union) and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier trade mark."

81. The relevant case law can be found in the following judgments of the CJEU: Case C-375/97, *General Motors,* Case 252/07, *Intel,* Case C-408/01, *Adidas-Salomon,* Case C-487/07, *L'Oreal v Bellure,* Case C-323/09, *Marks and Spencer v Interflora,* Case C383/12P, *Environmental Manufacturing LLP v OHIM.* The law appears to be as follows:

(a) The reputation of a trade mark must be established in relation to the relevant section of the public as regards the goods or services for which the mark is registered; *General Motors*, paragraph 24.

(b) The trade mark for which protection is sought must be known by a significant part of that relevant public; *General Motors*, paragraph 26.

(c) It is necessary for the public when confronted with the later mark to make a link with the earlier reputed mark, which is the case where the public calls the earlier mark to mind; *Adidas Salomon*, paragraph 29 and Intel, paragraph 63.

(d) Whether such a link exists must be assessed globally taking account of all relevant factors, including the degree of similarity between the respective marks and between the goods/services, the extent of the overlap between the relevant consumers for those goods/services, and the strength of the earlier mark's reputation and distinctiveness; *Intel*, paragraph 42

(e) Where a link is established, the owner of the earlier mark must also establish the existence of one or more of the types of injury set out in the section, or there is a serious likelihood that such an injury will occur in the future; Intel, paragraph 68; whether this is the case must also be assessed globally, taking account of all relevant factors; *Intel*, paragraph 79.

(f) Detriment to the distinctive character of the earlier mark occurs when the mark's ability to identify the goods/services for which it is registered is weakened as a result of the use of the later mark, and requires evidence of a change in the economic behaviour of the average consumer of the goods/services for which the earlier mark is registered, or a serious risk that this will happen in future; *Intel*, paragraphs 76 and 77 and *Environmental Manufacturing*, paragraph 34.

(g) The more unique the earlier mark appears, the greater the likelihood that the use of a later identical or similar mark will be detrimental to its distinctive character; *Intel*, paragraph 74.

(h) Detriment to the reputation of the earlier mark is caused when goods or services for which the later mark is used may be perceived by the public in such a way that the power of attraction of the earlier mark is reduced, and occurs particularly where the goods or services offered under the later mark have a characteristic or quality which is liable to have a negative impact of the earlier mark; *L'Oreal v Bellure NV*, paragraph 40.

(i) The advantage arising from the use by a third party of a sign similar to a mark with a reputation is an unfair advantage where it seeks to ride on the coat-tails of the senior mark in order to benefit from the power of attraction, the reputation and the prestige of that mark and to exploit, without paying any financial compensation, the marketing effort expended by the holder of the mark in order to create and maintain the mark's image. This covers, in particular, cases where, by reason of a transfer of the image of the mark or of the characteristics which it projects to the goods identified by the identical or similar sign, there is clear exploitation on the coat-tails of the mark with a reputation (*Marks and Spencer v Interflora*, paragraph 74 and the court's answer to question 1 in *L'Oreal v Bellure*).

82. I have summarised the opponent's evidence at paragraphs 55 to 69 above. I do not intend to repeat this here but remind myself, briefly, that it covers a global turnover of around £17 million, a total payment volume of £833 million and an advertising spend of £1.8 million for the three years leading up to the relevant date. On the face of it, this appears to reflect an intense level of use over a short timeframe. However, as I have discussed above, there is nothing before me to suggest that this relates solely to use in the UK and, on the contrary, it appears to me to be global use. Further, there is nothing to suggest how much can be reasonably apportioned to the UK. As a result, I have been unable to determine how much of the use relates to the relevant territory for the present assessment (which is the UK). For the same reasons given above when discussing the issue of enhanced distinctiveness at paragraphs 70 to 72 above, I do not consider the evidence is sufficient to establish the requisite reputation and the claim under this ground falls at the first hurdle.

CONCLUSION

83. The opposition succeeds in part and, subject to any successful appeal against my decision, the applicant's mark is refused for the following goods and services:

Class 9: Magnetic payment cards; Encoded prepaid payment cards; Terminals for electronically processing credit card payments; Credit card terminals; Card readers for credit cards; Credit cards; Encoded prepaid credit cards; Telephone credit cards; Credit card encoding machines; Electronic and magnetic ID cards for use in connection with payment for services; Software for facilitating secure credit card transactions; Payment cards being magnetically encoded; Payment software; Credit cards [magnetic]; Magnetic credit cards; Credit cards [encoded]; Encoded credit cards; Electronic payment terminal; Card readers for magnetic cards; Electronic payment terminals; Online payment software; Cash cards [encoded]; Credit cards with a magnetic strip; Coded bank cards; Secure digital (SD) card readers; Cash cards [magnetic]; Electronic machines for reading credit cards.

Class 35: Credit card registration services; Administrative services relating to credit card registration; Retail of third-party pre-paid cards for the purchase of telecommunication services.

Class 36: Credit card and payment card services; Bank card, credit card, debit card and electronic payment card services; Debit card payment services; Credit card payment processing; Credit card payment services; Payment card services; Processing of debit card payments; Processing of credit card payments; Payment transaction card services; Credit card and debit card services; Charge card and credit card services; Credit and debit card services; Issuing of payment gift cards; Debit card services; Electronic credit card transactions; Issuance of credit and debit cards; Electronic credit card transaction processing; Credit and cash card services; Credit card verification; Credit card services; Credit card transaction processing services; Processing of payments in relation to credit cards; Debit card validation services; Processing of electronic credit card transactions; Bank cheque card services; Cash card services; Credit card validation services; Processing debit card transactions for others; Credit cards (Issuance of -); Issuance of credit cards; Issuing electronic payment cards in connection with bonus and reward schemes; Bank card services; Cheque guarantee card services; Processing credit card transactions for others; Financial services related to the issuance of bank cards and debit cards; Provision of credit card services; Processing of payments in relation to charge cards; Provision of credit cards; Payment processing; Processing electronic payments made through prepaid cards; Credit cards services; Management of credit card services; Credit card management services; Contactless payment services; Issuing credit cards; Issuing of credit cards; Cash replacement rendered by credit card; Issuance of prepaid gift cards; Issue of credit cards; Processing payments made by charge cards; Issuing of payment gift vouchers; Credit card advisory services; E-wallet payment services; Charge card services; Processing charge card transactions for others; Automated banking services relating to credit card transactions; Credit card protection and registry services; Issue of phone card services; On-line bill payment services; Bill payment services; Provision of information relating to credit card transactions; Provision of prepaid cards and tokens; Credit services for payment of insurance premiums; Credit services for the payment of insurance premiums; Insurance services relating to credit cards; Payment processing services; Automated payment; Processing of electronic check payments; Acceptance of bill payments; Processing of payment transactions via the Internet; Payment and receipt of money as agents; Tax payment processing services; Processing of electronic debit transactions; Automated banking services relating to charge card transactions; Conducting cashless payment transactions; Electronic payment services; Automated payment of accounts; Financial services for the management of credit cards; Clearing services for payment transactions; Electronic debit transactions; Financial services relating to credit cards; Card accessed banking services; Telegraphic remittance [payment] services; Electronic wallet services (payment services); Processing of electronic payments; Electronic processing of payments; Debit account services; Check payment guarantee services; Financial transfers and transactions, and payment services; Debit collection.

84. However, it may (again, subject to any successful appeal of my decision) proceed to registration for the following goods and services:

Class 9:	Credit card cases [fitted holders].
Class 18:	Credit card wallets.
Class 36:	Negotiation for the collection of cheques and bills of payment.

COSTS

85. The opponent has enjoyed the greater degree of success in these proceedings and, as such, is entitled to a contribution towards its costs based upon the scale published in Tribunal Practice Notice 1/2023. In the circumstances, I appreciate that the opposition failed against three terms. However, I do not consider it necessary to reflect this via a reduction of the opponent's costs award. As a result, I award the opponent the sum of £1,100 as a contribution towards its costs. The sum is calculated as follows:

Preparing a notice of opposition and considering the counterstatement:	£300
Filing evidence:	£600

Official fees:	£200
Total:	**£1,100**

86. I hereby order XRPayNet Global Limited to pay VOLT TECHNOLOGIES HOLDINGS LIMITED the sum of £1,100. The above 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 conclusion of the appeal proceedings.

Dated this 27th day of June 2026

A COOPER
For the Registrar

ANNEX

Class 9

Magnetic payment cards; Encoded prepaid payment cards; Terminals for electronically processing credit card payments; Credit card terminals; Card readers for credit cards; Credit cards; Encoded prepaid credit cards; Telephone credit cards; Credit card encoding machines; Electronic and magnetic ID cards for use in connection with payment for services; Software for facilitating secure credit card transactions; Payment cards being magnetically encoded; Payment software; Credit cards [magnetic]; Magnetic credit cards; Credit cards [encoded]; Encoded credit cards; Credit card cases [fitted holders]; Electronic payment terminal; Card readers for magnetic cards; Electronic payment terminals; Online payment software; Cash cards [encoded]; Credit cards with a magnetic strip; Coded bank cards; Secure digital (SD) card readers; Cash cards [magnetic]; Electronic machines for reading credit cards.

Class 18

Credit card wallets.

Class 35

Credit card registration services; Administrative services relating to credit card registration; Retail of third-party pre-paid cards for the purchase of telecommunication services.

Class 36

Credit card and payment card services; Bank card, credit card, debit card and electronic payment card services; Debit card payment services; Credit card payment processing; Credit card payment services; Payment card services; Processing of debit card payments; Processing of credit card payments; Payment transaction card services; Credit card and debit card services; Charge card and credit card services; Credit and debit card services; Issuing of payment gift cards;

Debit card services; Electronic credit card transactions; Issuance of credit and debit cards; Electronic credit card transaction processing; Credit and cash card services; Credit card verification; Credit card services; Credit card transaction processing services; Processing of payments in relation to credit cards; Debit card validation services; Processing of electronic credit card transactions; Bank cheque card services; Cash card services; Credit card validation services; Processing debit card transactions for others; Credit cards (Issuance of -); Issuance of credit cards; Issuing electronic payment cards in connection with bonus and reward schemes; Bank card services; Cheque guarantee card services; Processing credit card transactions for others; Financial services related to the issuance of bank cards and debit cards; Provision of credit card services; Processing of payments in relation to charge cards; Provision of credit cards; Payment processing; Processing electronic payments made through prepaid cards; Credit cards services; Management of credit card services; Credit card management services; Contactless payment services; Issuing credit cards; Issuing of credit cards; Cash replacement rendered by credit card; Issuance of prepaid gift cards; Issue of credit cards; Processing payments made by charge cards; Negotiation for the collection of cheques and bills of payment; Issuing of payment gift vouchers; Credit card advisory services; E-wallet payment services; Charge card services; Processing charge card transactions for others; Automated banking services relating to credit card transactions; Credit card protection and registry services; Issue of phone card services; On-line bill payment services; Bill payment services; Provision of information relating to credit card transactions; Provision of prepaid cards and tokens; Credit services for payment of insurance premiums; Credit services for the payment of insurance premiums; Insurance services relating to credit cards; Payment processing services; Automated payment; Processing of electronic check payments; Acceptance of bill payments; Processing of payment transactions via the Internet; Payment and receipt of money as agents; Tax payment processing services; Processing of electronic debit transactions; Automated banking services relating to charge card transactions; Conducting cashless payment transactions; Electronic payment services; Automated payment of accounts; Financial services for the management of credit cards; Clearing services for payment transactions; Electronic debit transactions; Financial services relating to credit cards; Card accessed banking services; Telegraphic remittance [payment] services; Electronic wallet services (payment services); Processing of electronic payments; Electronic processing of payments; Debit account services; Check payment guarantee services; Financial transfers and transactions, and payment services; Debit collection.