

O/0549/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NUMBER 4168506

BY THE CLEARORTHO LTD

TO REGISTER THE FOLLOWING TRADE MARK:

Orthovue.

IN CLASSES 9 AND 42

AND

THE OPPOSITION THERETO UNDER NUMBER 600003698

BY MERIDIAN TECHNIQUE LIMITED

Background and pleadings

1. On 4 March 2025, The ClearOrtho Ltd (“the applicant”) applied to register the trade mark shown on the cover page of this decision in the UK. It was accepted and published in the Trade Marks Journal on 14 March 2025 in respect of the following goods and services:

Class 9: Advanced online and non-downloadable software solutions, including but not limited to innovative 3D modelling digital imaging platforms designed specifically to visualise tooth movement to present comprehensive treatment plans with the aim of manufacturing customised orthodontic appliances. Non-downloadable and online applications dedicated to the real-time monitoring and management of patient treatments, ensuring personalised care and effective communications between dental professionals and patients. Additionally, advanced online and non-downloadable versatile software solutions including but not limited to deliver professional dentistry and orthodontic services, enhancing patient engagement, and streamlining clinical workflows through intuitive, user-friendly interfaces; System software; 3D animation software; 3D computer graphics software; Workflow management system software; Computer software for use in medical decision support systems; Software; Simulation software; Simulation software for use in digital computers; Application simulation software; Computer software.

Class 42: Design and development of computer software for use with medical technology; Design of software for use with printing machines.

2. On 12 June 2025, Meridian Technique Limited (“the opponent”) opposed the trade mark under the Fast Track opposition procedure, based upon Section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). This is on the basis of its earlier UK comparable trade mark:¹

¹ On 1 January 2021, the UK left the EU after the expiry of the transition period. Under Article 54 of the Withdrawal Agreement, the Registry created comparable UK trade marks for all right holders with an existing EUTM. As a result of the opponent’s EUTM being registered as at the end of the Implementation Period, a comparable UK trade mark was automatically created. The comparable UK mark is now recorded on the UK trade mark register, has the same legal status as if it had been applied for and registered under UK law, and retains its original priority date.

OrthoView

UK registration number: UK00909971201

Filing date: 16 May 2011

Registration date: 19 October 2011

For the following goods:

Class 9: Medical software for planning medical procedures and for post-operative analysis.

3. By virtue of its earlier filing date, the opponent's above registration constitutes an earlier mark in accordance with section 6 of the Act. As the opponent's earlier registration had been registered for more than five years before the filing date of the applicant's mark, ordinarily it would be subject to the use provisions set out in section 6A of the Act. The applicant however has not requested that the opponent provide proof of use of the same and therefore it may rely on all the goods of its registration without having to show genuine use.

4. Under section 5(2)(b), the opponent claims that the respective goods and services are identical or closely related and that the marks are highly similar, and that, as such, there will be a likelihood of confusion between the marks.

5. The applicant filed a counterstatement in which it denies the claims of the opponent.

6. The opponent filed evidence relating to the use of its mark alongside its pleadings. Only the opponent filed submissions in lieu.

7. The opponent is represented by De Clercq & Partners. The applicant is unrepresented.

8. The provisions of the Act relied upon in these proceedings are assimilated law, as they are derived from EU law. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 (as amended by Schedule 2 of the Retained EU Law (Revocation and Reform) Act 2023) requires tribunals applying assimilated

law to follow assimilated EU case law. That is why this decision refers to decisions of the EU courts which predate the UK's withdrawal from the EU.

Evidence

9. The opponent's evidence was filed in the form of four exhibits filed alongside the Form TM7F. The exhibits are accompanied by Carla Van Steenbergen who is the director of the opponent.

10. I confirm that I have taken all filed documents into account and will summarise them to the extent that I deem necessary below.

Preliminary issues

11. In its counterstatement, the applicant states that "OrthoView is typically associated with orthopaedics [...]. In contrast, OrthoVue pertains to orthodontics [...]. This key difference in their areas of expertise sets them apart in the healthcare industry". Additionally, the applicant states "OrthoView is sold as a license to customers is a full-fledged product [...]. In contrast, Orthovue is not sold separately and serves as a supportive tool [...]".

12. The applicant appears to be submitting that there is no likelihood of confusion between the marks on the basis that the parties operate in different market sectors.

13. I remind myself of the findings of Dr Brian Whitehead sitting as the Appointed Person in the *City Storage Systems LLC v Kenmark Kitchen Limited*, where he stated (my emphasis):²

"18. [...] The authors of Kerly state at 11-055: "it is the goods or services covered by the specification of the marks at issue that must be considered when making this assessment, and not the goods or services actually marketed under those marks", referring to *Present-Service Ullrich GmbH & Co KG v OHIM* (T-66/11) [2013] E.T.M.R. 29. In that case, the General Court said at 45:

² O/0065/24

“Secondly, the applicant’s claim that it operates in a completely different commercial sector from the intervener is also irrelevant. In order to assess the similarity of the goods or services at issue for the purposes of art.8(1)(b) of Regulation 207/2009, the group of goods or services protected by the marks at issue must be taken into account, and not the goods or services actually marketed under those marks”.

14. It follows that, in my assessment, I must look at the similarity of the goods and services solely on the basis of those registered and applied for rather than the goods and services actually marketed by the parties. I thus disregard this submission from the applicant.

Section 5(2)(b)

15. Section 5(2)(b) of the Act is as follows:

“5(2) A trade mark shall not be registered if because-

(b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark”.

Section 5A

16. Section 5A of the Act is as follows:

“5A 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.”

The principles

17. 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

18. 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 of its judgment that:

“In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, inter alia, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary.”

19. 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.

20. In *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T- 133/05, the General Court (“GC”) stated that:

“29. In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by trade mark application (Case T-388/00 *Institut 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.”

21. With this in mind, the goods and services for comparison are as follows:

Opponent’s goods:	Applicant’s contested goods and services:
<i>Class 9: Medical software for planning medical procedures and for post-operative analysis.</i>	<i>Class 9: Advanced online and non-downloadable software solutions, including but not limited to innovative 3D modelling digital imaging platforms designed specifically to visualise tooth movement to present comprehensive treatment plans with the aim of manufacturing customised orthodontic appliances; Non-downloadable and online applications dedicated to the real-time monitoring and management of patient treatments, ensuring personalised care and effective communications between dental professionals and patients; Additionally, advanced online and non-downloadable versatile software solutions including but not limited to deliver professional dentistry and orthodontic services, enhancing patient engagement, and streamlining clinical workflows through intuitive, user-friendly interfaces; System software; 3D animation software; 3D computer graphics software; Workflow management</i>

	<i>system software; Computer software for use in medical decision support systems; Software; Simulation software; Simulation software for use in digital computers; Application simulation software; Computer software.</i> <i>Class 42: Design and development of computer software for use with medical technology; Design of software for use with printing machines.</i>
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Class 9

Advanced online and non-downloadable software solutions, including but not limited to innovative 3D modelling digital imaging platforms designed specifically to visualise tooth movement to present comprehensive treatment plans with the aim of manufacturing customised orthodontic appliances

22. The wording ‘including but not limited to...’ is not limiting. The above goods therefore cover the entire scope of ‘advanced online and non-downloadable software solutions’. This overlaps in scope with the opponent’s goods, as the medical software can be online and non-downloadable. The goods are therefore identical according to the principles of *Meric*.

Non-downloadable and online applications dedicated to the real-time monitoring and management of patient treatments, ensuring personalised care and effective communications between dental professionals and patients

23. The above goods overlap in purpose with the opponent’s goods as both are software for patient care. They also overlap in users as both will be used by medical professionals. Their nature overlaps as both are medical software to be used for monitoring and planning patient care. Trade channels overlap as both will be purchased through medical software wholesalers or medical software developers. There is no competition or complementarity. Overall, I find a medium level of similarity between the goods.

Advanced online and non-downloadable versatile software solutions including but not limited to deliver professional dentistry and orthodontic services, enhancing patient

engagement, and streamlining clinical workflows through intuitive, user-friendly interfaces

24. As above, the wording 'including but not limited to...' is not limiting. The above goods therefore cover the entire scope of 'advanced online and non-downloadable versatile software solutions'. This overlaps in scope with the opponent's goods. The goods are therefore identical according to the principles of *Meric*.

System software; Software; Computer software

25. The opponent's goods fall within the scope of the above goods. The goods are therefore identical according to the principles of *Meric*.

3D animation software; 3D computer graphics software; Simulation software; Simulation software for use in digital computers; Application simulation software

26. I consider that the above goods overlap in scope with medical software for planning orthopaedic medical procedures as 3D animation, 3D computer graphics and simulation software could be used for visualising said medical procedures. I therefore find the goods identical according to the principles of *Meric*.

Workflow management system software

27. Workflow management system software is a centralised digital tool used to design, automate and track the sequence of tasks required to complete a business process. The purpose of the goods therefore differs from that of the opponent's. The users may overlap as both goods may be used by medical professionals, although the above goods will also be used by professionals more generally. The nature of the goods broadly overlaps as both are computer software, but the specific nature differs. Trade channels are unlikely to overlap as the above goods will be sold by general software developers, whereas the opponent's goods will be sold by specific medical software developers. There is no competition or complementarity. Overall, I find the above goods to have a low similarity to the opponent's goods.

Computer software for use in medical decision support systems

28. The opponent's goods fall within the scope of the above goods. The goods are therefore identical according to the principles of *Meric*.

Class 42

Design and development of computer software for use with medical technology

29. The above services include the design and development of the opponent's software. The purpose and nature clearly differ, but the users overlap. It is likely that entities offering design and development services will also sell the software they develop, so trade channels overlap. There is possible competition because a consumer may choose between buying pre-made software and engaging in a service to create bespoke software. There is possible complementarity as software requires the design and development of it, and it is likely that a consumer would conclude that both the good and the service would be provided by the same entity. Overall, I find the above services to have a medium degree of similarity to the opponent's goods.

Design of software for use with printing machines

30. The above services could be used to design software for use with printing machines for a medical environment, such as 3D printers. In this situation, the users of the services could overlap with those of the opponent's goods as both could be medical professionals. The purpose and nature of the goods differ. In a medical environment it is possible that trade channels could overlap as the same entity could sell medical software and design services for medical software. There is no competition or complementarity. Overall, I find the above services to have a low degree of similarity to the opponent's goods.

Average consumer and the purchasing act

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

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

31. The goods and services will be purchased by two groups of average consumers. Firstly, the general public purchasing the general software goods and services. These consumers will take into consideration the price and quality of the goods and services and are likely to pay a medium level of attention during the purchasing process.

32. Secondly, the medical goods and services will be purchased by medical professionals. These consumers will take into consideration the price, quality and compatibility of the software with existing systems. I consider that these consumers will pay a higher than medium level of attention during the process due to the software

likely needing to comply with regulations and it needing to handle sensitive personal data.

33. The goods and services at issue will be purchased via catalogues and online. The products will be visually viewed, although I also consider it likely that advice would be sought from a sales advisor. As a result, I consider that both aural and visual considerations will play a role in the purchasing process.

Comparison of marks

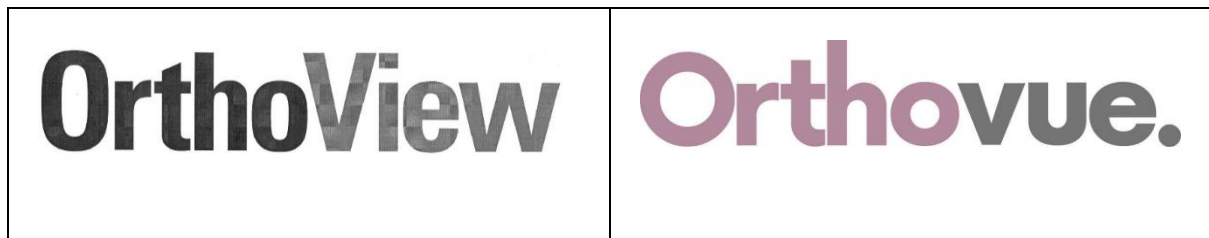
34. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference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

35. It would be wrong, therefore, to dissect the trade marks artificially, although it is necessary to take into account the distinctive and dominant components of the 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.

36. The respective trade marks are shown below:

The opponent's earlier mark	The applicant's contested mark
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37. In its pleadings, the opponent pleads:

“Both marks share the identical prefix Ortho, while their respective suffixes Vue. and View are likewise extremely similar in appearance, pronunciation, and meaning.”

Overall impression

38. The opponent’s mark is a figurative mark consisting of the word “OrthoView” in a simple font. The “Ortho” element is in black, while the “View” element is in a grey colour. The capitalisation of the letter V and the change of colour creates a clear distinction between the elements.

39. The applicant’s mark is a figurative mark consisting of the word “Orthovue” in a simple font. The “Ortho” element is in pink, while the “vue” element is in a grey colour. The change of colour creates a clear distinction between the elements. The mark ends with a grey circle appearing as a full stop at the end of the word. This circle element has a very minimal effect on the overall impression of the mark.

Visual comparison

40. Both of the marks share the identical element ‘Ortho’. Although they are presented in different colours, this colour difference is not significant.

41. The opponent’s mark further contains the element “View” at the end of the mark, while the applicant’s contested mark contains the element “vue” at the end of the mark. These elements both start with the same letter, creating visual similarity, although one is capitalised and one is not. The remainder of the elements differ.

42. The circle element in the applicant’s mark has a very minimal effect on the visual impression of the mark.

43. Given the identical first elements of the marks and the same first letter of the second elements, I consider the marks to have a medium level of visual similarity.

Aural comparison

44. The opponent's mark will be pronounced as 'ortho-view'. Despite the difference in spelling of the second element of the contested mark, it is likely to be pronounced in the same way by a significant proportion of consumers. As a result, the marks are aurally identical.

Conceptual comparison

45. In its counterstatement, the applicant states:

"The prefix "Ortho-" in both trademarks signifies "straight" or "correct". However, the suffixes "view" and "vue" convey distinct meanings. "Orthoview" suggests a visual or analytical perspective specific to orthopaedic conditions, possibly implying imaging technology or assessment tools for musculoskeletal health. Conversely, "Orthovue" implies a broader perspective on orthodontic care, involving patient assessment or treatment visualisation in dental practices.

46. In its submissions in lieu, the opponent submits:

"It is admitted that the wording "Ortho" is derived from the Greek word "Orthos", which means "straight". On the other hand it is denied that the relevant public will perceive "ortho" as referring to "orthopaedics" in relation to the Earlier Right and to "orthodontics" in relation to the Opposed Mark. There is evidence that would support such a claim and moreover this claim is not credible since neither of the Trade Marks under comparison are limited to the field of "orthopaedics" or "orthodontics" as they appear on the register. Furthermore, Opponent submits that "vue" will be understood as "view" by the relevant public and therefore denied the allegation that they would "convey distinct meanings".

47. Both marks contain the prefix "ortho". As noted by both parties, this term means straight or correct, which is likely to be understood by medical professionals. The prefix is commonly used as a shortening of medical fields such as orthopaedics, orthodontics

and orthotics. Members of the general public are likely to understand this term to relate to one or more of these medical fields. However this term is understood, it will be the same in both marks.

48. The second element of the opponent's and applicant's marks are "view" and "vue", respectively. View is a dictionary word which will be understood by consumers. Vue is not a dictionary word. However, it does look and sound very similar to the word view and could be understood to be a misspelling of the word view. There is therefore some overlap in conceptual meaning.

49. Overall, considering the identical concept of the first elements of the marks and the overlap in concept of the second elements, I consider the marks to have a high conceptual similarity.

Distinctive character of the earlier trade mark

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

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

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not 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).”

51. 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/services, to those with high inherent distinctive character, such as invented words which have no allusive qualities. The distinctiveness of a mark can be enhanced by virtue of the use that has been made of it.

52. The opponent’s mark consists of the word “OrthoView”. As noted above, the capitalisation of the letter V and the two elements being presented in different colours would lead the average consumer to read the marks as two elements: Ortho and View. The first element ‘Ortho’ will be readily understood as a prefix used in various medical disciplines. For medical professionals in particular, this prefix has a fairly low distinctive character as it alludes to goods and services used in the medical field, although it is not directly descriptive of software itself. The second element ‘View’ is not descriptive or allusive of the goods and services. The distinctiveness of the mark lies in the combination of these two elements. Taking all of the factors into account, I consider the mark to have a slightly below medium level of inherent distinctiveness.

53. As the opponent has filed evidence of use of their marks, I will consider whether this evidence demonstrates enhanced distinctiveness of the marks. The evidence includes UK turnover figures for the years 2020 to 2024, sales figures for the years 2017 to 2025, invoices showing sales to UK consumers, sales brochures and website traffic data. The turnover and sales figures are not insignificant, but when considered in light of the software market as a whole, with no submissions on this wider market, I consider the figures to be fairly low. The products sold by the opponent appear to vary widely in cost, and it is therefore difficult to determine sales numbers from the figures. There are also no details regarding the amount spent on advertising the goods. Overall, I do not consider that the distinctiveness of the earlier marks has been enhanced to a higher degree than the above determined inherent distinctiveness.

GLOBAL ASSESSMENT – Conclusions on Likelihood of Confusion

54. 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 (or services) and vice versa (*Canon* at [17]). It is necessary to keep in mind the distinctive character of the opponent's trade mark, the average consumer of the goods and the nature of the purchasing act. 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 (*Lloyd Schuhfabrik* at [26]).

55. 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/services down to the responsible undertakings being the same or related.

56. Earlier in this decision, I found the goods and services to range from low similarity to identical. I found the marks to have a medium level of visual similarity, a high level of conceptual similarity, and to be aurally identical. I found the earlier marks to possess a slightly below medium level of distinctive character. I identified the average consumer to be the general public paying a medium level of attention, and medical professionals paying a higher than medium level of attention. I found that the goods and services would be selected by both visual and aural means.

57. Considering direct confusion, I note the aural identity and the high level of conceptual similarity. I also note the visual similarities between the marks, being the initial element 'Ortho' and the second elements having the same first letter. I do not consider it likely that the spelling of 'view' or 'vue' would stick in the mind of a consumer, particularly due to the aural identity. I therefore consider it likely that a consumer would confuse the marks for each other not only on identical goods or services, but also for those that I found to be similar only to a low degree.

58. Taking all of this into account, I find there to be a likelihood of direct confusion between the marks for all of the goods and services I have found similar or identical.

Final Remarks

59. The opposition is successful in respect of all of the contested goods and services. Subject to any successful appeal, the application will be declared invalid in its entirety.

COSTS

60. The opponent has achieved success in these proceedings and is therefore entitled to a contribution towards its costs. In the circumstances, I award the opponent the sum of **£450** as a contribution towards the cost of the proceedings, in accordance with Tribunal Practice Notice 1/2023 which governs costs in Fast Track proceedings issued after 1 February 2023. The sum is calculated as follows:

Official fee:	£100
Filing a notice of opposition including evidence:	£350
Filing written submissions:	£100
Total:	£450

61. I therefore order The ClearOrtho Ltd to pay Meridian Technique Limited the sum of **£450**. The above sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 30th day of June 2026

K HAZLEBACH

For the Registrar