

O/0550/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK3932388

BY SUJ B.V.

TO REGISTER THE TRADE MARK:

ICON.AMSTERDAM

IN CLASSES 25 & 35

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NO. 443988

BY DSQUARED2 TRADEMARKS LIMITED

Background and pleadings

1. On 11 July 2023, SUJ B.V. (“the applicant”) applied to register the trade mark shown on the cover page of this decision. The application was published for opposition purposes on 4 August 2023. The goods and services applied for are as follows:

Class 25: Clothing, footwear, headgear; pants, jeans, shorts, hoodies, T-shirts, swimwear and jackets.

Class 35: Advertising; business management; business administration; office functions; promotional services; wholesale and retail services connected with the sale of clothing, footwear, headgear, pants, jeans, shorts, hoodies, T-shirts, swimwear, jackets and other fashion items, bags, backpacks and sunglasses; organisation of events for commercial and advertising purposes; Consultancy and information regarding the aforesaid services; the aforesaid services also provided via electronic networks, such as the Internet.

2. The application was opposed in full by DSQUARED2 TRADEMARKS LIMITED (“the opponent”) on 6 November 2023. The opposition is based upon sections 5(2)(b), 5(3) and 5(4)(a) of the Trade Marks Act 1994 (“the Act”).

3. The opponent relies on the following trade mark for its section 5(2)(b) and 5(3) claims:

WO00000001579137

ICON

International Registration date: 1 December 2020

Date of protection in the UK: 23 November 2021

Priority date: 26 August 2020

Relying on all of its goods and services for sections 5(2)(b) and 5(3) as follows:

Class 9: Sunglasses; eyewear, spectacles; pince-nez cases, chains for spectacles; contact lenses; containers for contact lenses; correcting lenses (optics); cords for spectacles; eyeglass frames and optical goods; none of the aforesaid goods in the field of electric meters; none of the aforesaid for use in relation to the power sports industry, including motorcycles, utility terrain vehicles, all-terrain vehicles, personal watercraft and snowmobiles; none of the aforementioned goods in relation to tools/products for professional craftsmen or work wear and protective equipment.

Class 18: Leather and imitation leather, animal skins; trunks and suitcases; umbrellas and parasols; walking sticks; whips, harness and saddlery, card cases (wallets); key cases (leather goods); attache cases; briefcases (leather goods), attaché cases, document portfolios [cases]; moleskin (imitation leather), imitation leather; beach umbrellas; whips and saddlery goods, wallets; coin purses not of precious metal; handbags, backpacks, wheeled bags, bags for climbers, bags for campers, travel bags, beach bags, school bags, shopping bags; suitcases and boxes designed to contain toiletries; travel sets (leather goods); toiletry sets and make-up bags (empty); collars and clothing for animals; net bags for shopping; bags and net bags for shopping; bags and small bags (envelopes, pouches) of leather for packaging; none of the aforesaid for use in relation to the power sports industry, including motorcycles, utility terrain vehicles, all-terrain vehicles, personal watercraft and snowmobiles.

Class 25: Clothing; footwear, headgear; shirts; clothing of leather or imitation leather; clothing items, women's clothing; men's clothing; clothing for children and babies; hoods (clothing); belts (clothing); gloves (clothing); sashes for wear; scarves; shawls, neckties, hosiery; socks; shoes; bedroom slippers; clothing for sports, skiing and the beach; swaddling clothes; underwear, coats; overalls; short-sleeved shirts; tee-shirts; turtlenecks; slips (underwear); suits; trousers; jackets; pullovers; vests; sweaters; dresses; shirt yokes; shirt fronts; ready-made linings (parts of clothing); stuff jackets; pelerines; gabardines (clothing); waterproof clothing; pockets for clothing, pocket squares; jerseys (clothing); knitwear (clothing); underwear (lingerie); dressing gowns; none of the aforesaid for use in relation to the power sports industry, including

motorcycles, utility terrain vehicles, all-terrain vehicles, personal watercraft and snowmobiles; none of the aforementioned goods in relation to tools/products for professional craftsmen or work wear and protective equipment.

Class 35: Retail services, online retail services and mail order retail services in relation to clothing, footwear, headgear, jewellery, precious stones, watches, clocks, precious metals and their alloys, bracelets, brooches, cufflinks, perfumery, cosmetics, skincare; retail services, online retail services and mail order retail services in relation to medals, ornaments, shoe ornaments, objects of imitation gold, ornamental pins, tie pins, tie clips and watch straps; retail services, online retail services and mail order retail services in relation to leather and imitations of leather, bags, travelling bags, cases, suitcases, briefcases, straps of leather or imitation leather, handbags, garment bags, haversacks, rucksacks, trunks, purses, wallets, key cases, pouches, canes, sticks, saddlery and belts; advertising; marketing; promotional services; organisation, operation and supervision of loyalty programmes and of sales and promotional incentive schemes; fashion show exhibitions for commercial purposes; advertising and marketing services provided by means of social media; information, advisory and consultancy services in relation to the aforesaid services; none of the aforementioned services to be provided in connection with the power sports industry, including motorcycles, utility terrain vehicles, all-terrain vehicles, personal watercraft and snowmobiles.

4. Under section 5(2)(b), the opponent claims that the marks are visually, phonetically and conceptually highly similar and that the goods and services are identical or highly similar. It claims that this will lead to a likelihood of confusion.

5. Under section 5(3), the opponent claims to have acquired a “substantial reputation as a result of its longstanding use of its mark” and it is therefore “undoubtedly a well known mark”. The opponent states that use of the contested mark would gain an unfair advantage as it would “misappropriate and ride on the coat tails of the opponent’s attractive fame and reputation”. Further, it states that the contested mark would need little advertising or promotion as consumers will wrongly believe that the contested goods and services are “reputable and provided by the opponent or that the applicant

is endorsed by the opponent, or is an economically linked undertaking". It goes on to say that "detriment is foreseeable...as it would have no control over the quality, prestige, reliability or image of the goods and services supplied under the contested mark". It claims this has the potential to therefore damage the opponent's reputation. Lastly, it goes on to say that "detriment is foreseeable to the distinctive character of the opponent's mark by way of erosion, dilution, tarnishing and by negative association as a result of the use of the contested mark".

6. Under section 5(4)(a), the opponent relies upon the word mark 'ICON' which it claims to have used throughout the UK since 2015 for the following goods and services:

Sunglasses; eyewear, spectacles; pince-nez cases, chains for spectacles; contact lenses; containers for contact lenses; correcting lenses (optics); cords for spectacles; eyeglass frames and optical goods.

Leather and imitation leather, animal skins; trunks and suitcases; umbrellas and parasols; walking sticks; whips, harness and saddlery, card cases (wallets); key cases (leather goods); attache cases; briefcases (leather goods), attaché cases, document portfolios [cases]; moleskin (imitation leather), imitation leather; beach umbrellas; whips and saddlery goods, wallets; coin purses not of precious metal; handbags, backpacks, wheeled bags, bags for climbers, bags for campers, travel bags, beach bags, school bags, shopping bags; suitcases and boxes designed to contain toiletries; travel sets (leather goods); toiletry sets and make-up bags (empty); collars and clothing for animals; net bags for shopping; bags and net bags for shopping; bags and small bags (envelopes, pouches) of leather for packaging.

Class 25: Clothing; footwear, headgear; shirts; clothing of leather or imitation leather; clothing items, women's clothing; men's clothing; clothing for children and babies; hoods (clothing); belts (clothing); gloves (clothing); sashes for wear; scarves; shawls, neckties, hosiery; socks; shoes; bedroom slippers; clothing for sports, skiing and the beach; swaddling clothes; underwear, coats; overalls; short-sleeved shirts; tee-shirts; turtlenecks; slips (underwear); suits;

trousers; jackets; pullovers; vests; sweaters; dresses; shirt yokes; shirt fronts; ready-made linings (parts of clothing); stuff jackets; pelerines; gabardines (clothing); waterproof clothing; pockets for clothing, pocket squares; jerseys (clothing); knitwear (clothing); underwear (lingerie); dressing gowns.

Retail services, online retail services and mail order retail services in relation to clothing, footwear, headgear, jewellery, precious stones, watches, clocks, precious metals and their alloys, bracelets, brooches, cufflinks, perfumery, cosmetics, skincare; retail services, online retail services and mail order retail services in relation to medals, ornaments, shoe ornaments, objects of imitation gold, ornamental pins, tie pins, tie clips and watch straps; retail services, online retail services and mail order retail services in relation to leather and imitations of leather, bags, travelling bags, cases, suitcases, briefcases, straps of leather or imitation leather, handbags, garment bags, haversacks, rucksacks, trunks, purses, wallets, key cases, pouches, canes, sticks, saddlery and belts; advertising; marketing; promotional services; organisation, operation and supervision of loyalty programmes and of sales and promotional incentive schemes; fashion show exhibitions for commercial purposes; advertising and marketing services provided by means of social media; information, advisory and consultancy services in relation to the aforesaid services.

7. The opponent claims that it has “substantial goodwill and reputation” attached to the opponent’s sign and that use of the contested mark would amount to passing off. Further, it claims that the applicant would gain an “unfair advantage by misappropriating and misrepresenting the opponent’s goodwill”.

8. The applicant has denied the claims made.

9. The applicant is represented by Maguire Boss and the opponent is represented by Murgitroyd & Company.

10. The opponent filed evidence and submissions. A hearing was initially requested by the opponent; however, it then elected instead to file submissions in lieu of

attending a hearing (the applicant had previously indicated that it would not attend). This decision is therefore taken following careful consideration of the papers.

11. 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

12. The opponent's evidence consists of the witness statement of Stefania Panigada dated 18 March 2024. Ms Panigada is the Group Legal Counsel and HR Director of Dsquared2 Group and Dsquared2 Trademarks Limited and has been an employee of the company for 16 years and Group Legal Counsel for 9 years. The statement is accompanied by 8 exhibits.

13. I have taken all of the evidence and submissions into consideration in reaching my decision and will refer to them where necessary.

Decision

Section 5(2)(b)

14. Section 5(2)(b) 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”.

15. Section 5A states:

“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.”¹

16. The mark upon which the opponent relies qualifies as an earlier mark because it was applied for at an earlier date than the applicant’s trade mark pursuant to section 6 of the Act. The opponent’s earlier mark had not completed its registration process more than five years before the relevant date (the filing date of the applicant’s mark). Accordingly, the use provisions at section 6A of the Act do not apply and therefore the opponent is entitled to rely upon its full specification without having to show use of its mark.

Case law

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;

¹ Section 5A also applies to Sections 5(3) and 5(4)(a) grounds

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

(e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;

(f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

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

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

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

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

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

Comparison of 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 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* (OHIM) ('Meric'), 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 für Lernsysteme v OHIM - Educational Services (ELS)* [2002] ECR II-4301, paragraph 53) or where the goods designated by the trade mark application are included in a more general category designated by the earlier mark".

21. For the purposes of considering the issue of similarity of goods and services, it is permissible to consider groups of terms collectively where they are sufficiently comparable to be assessed in essentially the same way and for the same reasons (see *Separode Trade Mark* (BL O/399/10) and *BVBA Management, Training en Consultancy v. Benelux-Merkenbureau* [2007] ETMR 35 at paragraphs 30 to 38).

22. I consider that the opponent's best case lies with its goods and services in classes 25 and 35. I will therefore consider these terms first and refer to the remaining classes, if necessary, later on in this decision. The goods and services being compared therefore are:

Contested Goods and Services	Earlier Goods and Services
Class 25: Clothing, footwear, headgear; pants, jeans, shorts, hoodies, T-shirts, swimwear and jackets.	Class 25: Clothing; footwear, headgear; shirts; clothing of leather or imitation leather; clothing items, women's clothing; men's clothing; clothing for children and babies; hoods (clothing); belts (clothing); gloves (clothing); sashes for wear; scarves; shawls, neckties, hosiery; socks; shoes; bedroom slippers; clothing for sports, skiing and the beach; swaddling clothes; underwear, coats; overalls; short-sleeved shirts; tee-shirts;
Class 35: Advertising; business management; business administration; office functions; promotional services; wholesale and retail services connected with the sale of clothing, footwear, headgear, pants, jeans, shorts, hoodies, T-shirts, swimwear, jackets and other	

fashion items, bags, backpacks and sunglasses; organisation of events for commercial and advertising purposes; Consultancy and information regarding the aforesaid services; the aforesaid services also provided via electronic networks, such as the Internet.	turtlenecks; slips (underwear); suits; trousers; jackets; pullovers; vests; sweaters; dresses; shirt yokes; shirt fronts; ready-made linings (parts of clothing); stuff jackets; pelerines; gabardines (clothing); waterproof clothing; pockets for clothing, pocket squares; jerseys (clothing); knitwear (clothing); underwear (lingerie); dressing gowns; none of the aforesaid for use in relation to the power sports industry, including motorcycles, utility terrain vehicles, all-terrain vehicles, personal watercraft and snowmobiles; none of the aforementioned goods in relation to tools/products for professional craftsmen or work wear and protective equipment. Class 35: Retail services, online retail services and mail order retail services in relation to clothing, footwear, headgear, jewellery, precious stones, watches, clocks, precious metals and their alloys, bracelets, brooches, cufflinks, perfumery, cosmetics, skincare; retail services, online retail services and mail order retail services in relation to medals, ornaments, shoe ornaments, objects of imitation gold, ornamental pins, tie pins, tie clips and watch straps; retail services, online retail services and mail order retail services in relation to leather and imitations of leather, bags, travelling
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	bags, cases, suitcases, briefcases, straps of leather or imitation leather, handbags, garment bags, haversacks, rucksacks, trunks, purses, wallets, key cases, pouches, canes, sticks, saddlery and belts; advertising; marketing; promotional services; organisation, operation and supervision of loyalty programmes and of sales and promotional incentive schemes; fashion show exhibitions for commercial purposes; advertising and marketing services provided by means of social media; information, advisory and consultancy services in relation to the aforesaid services; none of the aforementioned services to be provided in connection with the power sports industry, including motorcycles, utility terrain vehicles, all-terrain vehicles, personal watercraft and snowmobiles.
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Class 25

23. The following terms are found identically in both specifications: *Clothing, footwear, headgear; T-shirts, jackets.*

24. The terms ‘pants, jeans, shorts, hoodies, swimwear’ from the applicant’s specification are clearly all types of clothing and therefore fall within that term from the opponent’s specification and are identical under the *Meri*c principle.

Class 35

25. I note the applicant has “the aforesaid services also provided via electronic networks, such as the Internet” at the end of this class. This is not acting as a limitation but rather a clarification that the services can also be found on electronic networks including the internet.

Advertising; promotional services;

26. The opponent has ‘advertising; promotional services; none of the aforementioned services to be provided in connection with the power sports industry, including motorcycles, utility terrain vehicles, all-terrain vehicles, personal watercraft and snowmobiles’. As the applicant’s terms are not limited, they encompass the opponent’s terms and, therefore, are identical under the *Meric* principle.

Business management; business administration;

27. These terms in the applicant’s specification cover various outsourcing services which are offered to businesses that require external support for part of their operations. The opponent’s class 35 services are related to marketing/advertising. I consider that it is possible that firms offering business management or administration might reasonably be expected to offer some advice on improving the performance of a company or its products via marketing/advertising, albeit as part of a wider remit. Therefore, there could be an overlap in purpose, providers, channels of trade and users. They are not in competition or complementary. Taking all of this into account, I consider the services to be similar to a low degree.

Office functions

28. Office functions are services used in relation to the day-to-day administrative functions of a business or office, such as finance, personnel and general office tasks. The closest services I can see here are the opponent’s ‘operation and supervision of loyalty programmes and of sales and promotional incentive schemes’. The services can be offered by the same specialised suppliers, they are aimed at the same

consumers, namely, business users, and they contribute to the same purpose, namely, the proper running and success of an undertaking; i.e. by incentivising staff, such as operating a scheme based around sales on a commission basis. The services are similar to a low degree.

Wholesale and retail services connected with the sale of clothing, footwear, headgear, pants, jeans, shorts, hoodies, T-shirts, swimwear, jackets and other fashion items, bags and backpacks

29. I find that retail services relating to clothing, footwear, headgear, pants, jeans, shorts, hoodies, T-shirts, swimwear, jackets and other fashion items, bags and backpacks are identical under the *Meric* principle to the opponent's 'Retail services, online retail services and mail order retail services in relation to clothing, footwear, headgear, bags; none of the aforementioned services to be provided in connection with the power sports industry, including motorcycles, utility terrain vehicles, all-terrain vehicles, personal watercraft and snowmobiles'.

30. Regarding the wholesale services, retail services and wholesale services in the same field of trade must be considered highly similar services and therefore, I find them to be similar to a high degree.

Wholesale and retail services connected with the sale of [...] sunglasses;

31. There is an overlap in nature, user and purpose between the above retail services and the opponent's 'Retail services, online retail services and mail order retail services in relation to clothing, footwear, headgear; none of the aforementioned services to be provided in connection with the power sports industry, including motorcycles, utility terrain vehicles, all-terrain vehicles, personal watercraft and snowmobiles' as both contain retail of consumer goods which have a link in terms of fashion/being worn on the body in some capacity. The trade channels will also overlap. They are not complementary nor are they in competition. Therefore, I find them similar to a medium degree.

32. For the wholesale services, I consider these to be a step away from retail although they cover the same field of trade and therefore, I find them to be similar to between a low and a medium degree.

Organisation of events for commercial and advertising purposes;

33. I consider there to be an overlap in user and purpose between the above services and the opponent's 'advertising; marketing; promotional services' as they will relate to the promotion of a company or their goods and services. The nature might differ as one is specifically relating to the organisation of events whereas the other is more generally in relation to advertising/marketing. There might be an overlap in trade channels. They could be in competition as a consumer might choose between help for a specific event or more general ongoing help. They are not complementary. I therefore find them to be similar to a medium degree.

Consultancy and information regarding the aforesaid services

34. This term is encompassed by the opponent's *information, advisory and consultancy services in relation to the aforesaid services*. Accordingly, where both parties provide consultancy and information in relation to the same underlying services, the level of similarity will mirror that of those services.

35. Therefore, by way of example, where the related retail services are identical, the corresponding consultancy and information services will also be identical. Where the related wholesale services are highly similar, the corresponding consultancy and information services will likewise be highly similar.

Average consumer and the purchasing act

36. 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.

37. 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.

38. The average consumer of the goods in class 25 will predominantly be the general public.

39. The selection of such goods is largely a visual process, as the average consumer will wish to physically handle the goods to ensure the correct size has been selected, whilst simultaneously appraising the overall aesthetic impact. I do not, however, ignore the potential for the marks to be spoken, for example, by sales assistants in a retail establishment or when making a purchase from a catalogue, over the telephone. However, in those circumstances, the consumer will have had an opportunity to view the goods, perhaps electronically via an online catalogue or website, or on paper in the traditional sense of catalogue shopping. Therefore, when considering the aural impact of the marks, the visual impression of these goods will already have played a part in the consumer's mind. The average consumer will pay a medium degree of attention during the purchase of the class 25 goods.

40. For the retail and wholesale services in class 35, again, I think the average consumer is the public but consider that it is also possible for there to be business consumers (particularly for the wholesale services). The services are likely to have been chosen by viewing promotional material and high street signage. The choice of all services at issue will largely be influenced by visual considerations but there is the possibility of word of mouth recommendations. When selecting the services at issue, the average consumer is likely to consider such things as stock, price of goods offered in comparison to other retailers, delivery method (for online retail) and knowledge of the staff. I therefore believe that the average consumer will pay a medium degree of attention during the selection process. For the advertising/marketing and business management related services in class 35, I find that these are more likely to have business/professional consumers. The purchasing process will be the same as I have mentioned above but they will consider cost and suitability in accordance with their needs. The average consumer will therefore pay an above medium (although not the highest) degree of attention.

Comparison of the marks

41. 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.”

42. 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.

43. The respective trade marks are shown below:

Contested mark	Earlier mark
ICON.AMSTERDAM	ICON

44. The earlier mark is a word mark consisting of one word and, therefore, that is where the overall impression lies.

45. The contested mark is comprised of two words 'ICON' and 'AMSTERDAM' separated by a full stop. I consider 'ICON' to be the dominant and distinctive component whilst the word 'AMSTERDAM' will play a lesser role on account of it being a descriptive indicator of geographical origin. The full stop simply reinforces the space between the word elements and therefore, whilst not negligible, does not significantly contribute to the overall impression.

46. Visually, the earlier mark is entirely replicated at the beginning of the contested mark. The contested mark has the further elements '.AMSTERDAM' which have no counterpart in the earlier mark. The marks have four overlapping letters and nine letters which differ. I therefore consider the marks to be visually similar to no more than a medium degree.

47. I consider that both words within the contested mark will be given their ordinary everyday pronunciations. The earlier mark will be pronounced identically to the first word within the contested mark. There is, however, the second word within the contested mark that has no counterpart in the earlier mark. I find them to be aurally similar to no more than a medium degree.

48. Conceptually, the word 'ICON' usually means something of symbolic importance (i.e. a landmark or person of importance) and I find that the same meaning will be applied to both marks. Amsterdam will be known to be a European city and has no counterpart in the earlier mark. It therefore acts as a point of conceptual difference. I find the marks conceptually similar to no more than a medium degree.

Distinctive Character of the Earlier Mark

49. 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).”

50. Registered trade marks possess varying degrees of inherent distinctive character, being lower where they are allusive or suggestive of a characteristic of the goods and/or services, ranging up 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 made of it. I have been provided with evidence of reputation by the opponent which I can use to consider whether the distinctiveness has been enhanced.

51. In order to do this, first I must consider the level of inherent distinctiveness the earlier mark has. In its counterstatement, the applicant states that “the word ‘icon’ solus is merely an aspirational statement, similar to the phrase ‘rock star’ in the ROCKSTAR decision (BL O-344-10), where the application was refused in respect of

clothing and headgear”.² In its submissions, the opponent submits that this is a meritless claim (which is supported by the applicant not filing any evidence in support of it) and states that ‘ICON’ is inherently distinctive for the goods/services it is registered for and further, this distinctiveness has been enhanced through use.

52. As per *Formula One Licensing BV v OHIM*, Case C-196/11P, a registered trade mark must be assumed to have “at least some distinctive character”. I note that the term ‘ICON’ is a dictionary word which may be seen as mildly allusive to goods and services which are seen as famous for being a classic or having some sort of importance in the field and therefore, I find the mark to be inherently distinctive to between a low and medium degree.

53. Turning now to the evidence, within her witness statement, Ms Panigada states that the earlier mark has been in use in the UK since 2015 and use of that mark has been “continuous and significant” since that date.³

54. Exhibit SP1 is a sample of invoices from 2017 to 2023. These show sales of goods referencing the ‘ICON’ mark such as trainers, jumpers, t-shirts and caps. The following table of turnover figures for goods and services provided under the ‘ICON’ mark was provided in the witness statement at paragraph 11 (although I note that these sales are not noted as being specifically related to the UK and are shown in Euros):

2019 (2/2)	EUR 1,636,917.90
2020 (1/2)	EUR 1,713,906.04
2020 (2/2)	EUR 3,358,349.85
2021 (1/2)	EUR 4,561,660.57
2021 (2/2)	EUR 6,326,268.47
2022 (1/2)	EUR 5,514,506.25
2022 (2/2)	EUR 2,665,394.79
2023 (1/2)	EUR 2,023,961.40

² Paragraph 22

³ Paragraph 9 of the Witness Statement

55. I note that there is also a table featuring the net UK turnover of the Company between 2015 and 2018 however, this not solely attributable to the 'ICON' mark and therefore, is of limited assistance.

56. Further within the witness statement, Ms Panigada states that the company has significant social media followings (over 2 million on Instagram, over 844,000 on Facebook etc). However, this does not show how many followers are based in the UK; the figures are likely to post-date the relevant date if taken when the evidence was collated; and the accounts appear to be the company's general social media accounts rather than accounts solely relating to the ICON brand.

57. Ms Panigada states at paragraph 18 of her witness statement that the opponent has spent "substantial financial resources in promoting the goods and services under the ICON trade mark in the UK". I note that no figure was provided and although Exhibit SP3 shows three invoices (one appears to be in Italian) between 10,560 Euros and £25,000 being spent on specific advertising arrangements, these invoices were all from 2020 which is 3 years prior to the relevant date. Also provided were UK publications showing products with the ICON mark in Exhibit SP4. Some example extracts are as follows:



58. The page on the left is taken from Attitude Magazine Summer 2021 and the page on the right is extracted from ShortList dated 31 August 2017.

59. Ms Panigada goes on to say that there have been several personality sponsorship activities using the 'ICON' mark, partnering in particular with Cher, Zlatan Ibrahimović and Naomi Campbell, supported by evidence in Exhibit SP5. There is an article from British GQ magazine in relation to the capsule collection with Zlatan Ibrahimović and lists the following products within his collection: jeans, t-shirts, denim shirts, vests, hoodies, a windbreaker, slacks, trainers and caps, all of which feature the ICON mark alongside his name.

60. Ms Panigada states that the company and its founders have received the following awards: 'Icon a la mode' from Spanish magazine Icon, amfAR Sao Paolo and Taormina Art Award. These awards all appear to be from outside of the UK and so I cannot see their relevance to the UK average consumer's perception of the mark.

61. Exhibit SP7 shows details of the current UK stockists of the ICON goods. This evidence is from after the relevant date although I note that the goods are stocked in Harvey Nichols and Selfridges stores in Birmingham, Bristol, Edinburgh, Leeds, London and Manchester.

62. For the distinctiveness to be enhanced, it must be shown that the mark was known by the relevant UK public at the relevant date. From the above evidence, although I have been provided with turnover figures for the 'ICON' mark itself, as I have explained above, these figures are for the 'ICON' mark generally and not UK specific. The opponent also provided their general UK turnover figures however, these were for the company generally and not for sales of just the 'ICON' goods/services. Further, neither set of figures show a breakdown of sales into the different goods/services that the mark is registered for. Only where there is only one good being sold and it is sold under only one trade mark can global figures be sufficient.⁴ Therefore, although there

⁴ *Eros Bodyglide* BL O/0984/25 – although I note that the AP in this case was referencing proof of use, I consider that the same principles apply when determining enhanced distinctiveness.

is evidence relating to marketing and geographical spread, I have not been provided with sufficient sales evidence to enable me to make a finding of enhanced distinctiveness. I will therefore proceed on the inherent finding.

Likelihood of Confusion

63. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other, while indirect confusion is where the average consumer realises the marks are not the same but puts the similarity that exists between the marks and the goods down to the responsible undertakings being the same or related. 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 vice versa. It is necessary for me to keep in mind the distinctive character of the earlier mark, the average consumer for the goods 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 he has retained in his mind.

64. The following factors must be considered to determine if a likelihood of confusion can be established:

- I have found the marks to be visually, aurally and conceptually similar to no more than a medium degree.
- The earlier mark is a word mark comprising of a single word 'ICON' and therefore, that is where the overall impression lies.
- I have found 'ICON' to be the dominant and distinctive component of the contested mark whilst the word 'AMSTERDAM' will play a lesser role on account of it being a descriptive indicator of geographical origin. The full stop simply reinforces the space between the marks and therefore, does not significantly contribute to the overall impression.

- I consider that the average consumer of the goods and services is likely to be the general public although I do not discount professional/business consumers, particularly for the advertising/marketing and business management services. I have concluded that a medium or above medium level of attention will be paid during the purchasing process. I have also found the purchasing process to be largely visual.
- I have found the remaining goods and services at issue to be identical or similar to between a low and a high degree.
- The earlier mark is inherently distinctive to between a low and medium degree.

65. I consider that the 'ICON' element within the contested mark is the dominant and distinctive element, while the additional elements, which have no counterpart in the earlier mark, are lower in distinctiveness. Even though the earlier mark is between a low and medium level of distinctiveness, this does not preclude me from making a finding of a likelihood of confusion.⁵ I consider that 'AMSTERDAM' being a geographical locator and the '.' reinforcing the space between the words might be overlooked by the average consumer, paying an average degree of attention, due to their very low distinctiveness even where the goods and services are similar to a low degree. I have found the marks to be visually, aurally and conceptually similar to no more than a medium degree however, the earlier mark is wholly contained at the beginning of the contested mark. Taking all of the above into account, I consider that there is a likelihood of direct confusion.

66. In case I am wrong in this finding, I will now go on to consider indirect confusion. Mr Iain Purvis Q.C. (as he then was) said further in *L.A. Sugar Limited v Back Beat Inc*:

"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

⁵ *L'Oréal SA v OHIM*, Case C-235/05 P, paragraph 45

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).”

67. In *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 1207, Arnold LJ referred to the comments of James Mellor QC (as he then was), sitting as the Appointed Person in *Cheeky Italian Ltd v Sutaria* (O/219/16), where he said at [16] that “a finding of a likelihood of indirect confusion is not a consolation prize for those who fail to establish a likelihood of direct confusion”. Arnold LJ agreed, pointing out that there must be a “proper basis” for concluding that there is a likelihood of indirect confusion where there is no likelihood of direct confusion.

68. Given that the elements of the contested mark that have no counterpart in the earlier mark (i.e. ‘.AMSTERDAM’) are descriptive (or very lowly distinctive) and relate to a geographical identifier, I believe the average consumer will see the contested mark as an alternative mark being used by the same or economically linked undertakings as a sub-brand or brand extension. It follows therefore, that I find there to be a likelihood of indirect confusion.

69. The opposition under section 5(2)(b) has been successful.

Section 5(3)

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

“5(3) A trade mark which –

(a) 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.”

71. Section 5(3A) of the Act states:

“Subsection (3) applies irrespective of whether the goods and services for which the trade mark is to be registered are identical with, similar to or not similar to those for which the earlier mark is protected.”

72. 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* and Case C-323/09, *Marks and Spencer v Interflora* and 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 Saloman*, 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 proprietor 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*).

73. The conditions of section 5(3) are cumulative. Firstly, the opponent's and applicant's marks must be similar or identical. Secondly the opponent must show that the earlier mark has achieved a level of knowledge/reputation amongst a significant part of the public. Thirdly, it must have established that the level of reputation and the similarities between the marks will cause the public to make a link between them, in the sense of the earlier mark being brought to mind by the later mark. Fourthly, assuming that the first, second and third conditions have been met, section 5(3) requires that one or more types of damage claimed will occur. It is unnecessary for the purposes of section 5(3) that the goods and services be similar, although the relative distance between them is one of the factors which must be assessed in deciding whether the public will make a link between the marks.

74. Within the Form TM7, Questions 6-9 on the section 5(3) part are intended to establish the precise basis for the claim that use of the contested mark would take unfair advantage and/or be detrimental to the reputation/distinctive character of the earlier mark. Question 6 asks the opponent to specify if the complaint is that the relevant public will believe that the user of the contested mark is economically connected to the user of the earlier mark. Questions 7-9 invite the opponent to specify how else the claimed unfair advantage/detriment would arise.

75. I note the following pleading under Question 7, which asks the opponent to outline any other basis of unfair advantage:

“The contested mark would therefore need little advertising or promotion as consumers will wrongly believe that the goods and services are reputable and

provided by the opponent, or that the applicant is endorsed by the opponent, or is an economically linked undertaking.[...]"

76. Question 9 asks for any other basis for the claim of detriment to the distinctive character of the earlier mark. The opponent has pleaded the following:

"The applicant can only benefit from evoking associations with the opponent's earlier mark[...] the opponent's reputation may be eroded, diluted and tarnished by negative association and by feedback mistakenly identifying the opponent.

Detriment is also foreseeable to the distinctive character of the opponent's mark by way of erosion, dilution, tarnishing and by negative association as a result of the use of the contested mark. This means that the relevant public may not purchase the opponent's goods and services in the mistaken belief that these emanate from the applicant."

77. The above claims refer to mistakenly identifying the opponent, consumers believing that the goods and services of one party are that of the other and feedback mistakenly identifying the wrong owner of the mark. All of these pleadings effectively amount to an argument of a likelihood of direct confusion. I have already found a likelihood of confusion in the section 5(2)(b) element of this decision above and therefore, this will not get the opponent any further forward. In case I am wrong about the section 5(2)(b) conclusion and/or my assessment that the section 5(3) claims are based on confusion, I will briefly examine whether the 5(3) claim would succeed independently.

78. The relevant date for the assessment under section 5(3) is the date of application i.e. 11 July 2023.

Reputation

79. In *General Motors*, Case C-375/97, the CJEU held that:

“25. It cannot be inferred from either the letter or the spirit of Article 5(2) of the Directive that the trade mark must be known by a given percentage of the public so defined.

26. The degree of knowledge required must be considered to be reached when the earlier mark is known by a significant part of the public concerned by the products or services covered by that trade mark.

27. In examining whether this condition is fulfilled, the national court must take into consideration all the relevant facts of the case, in particular the market share held by the trade mark, the intensity, geographical extent and duration of its use, and the size of the investment made by the undertaking in promoting it.

28. Territorially, the condition is fulfilled when, in the terms of Article 5(2) of the Directive, the trade mark has a reputation 'in the Member State'. In the absence of any definition of the Community provision in this respect, a trade mark cannot be required to have a reputation 'throughout' the territory of the Member State. It is sufficient for it to exist in a substantial part of it.”

80. In determining whether the opponent has demonstrated a reputation for the goods and services it has identified, it is necessary for me to consider whether its mark will be known by a significant part of the public. In reaching this decision, I must take all of the evidence into account including “the market share held by the trade mark, the intensity, geographical extent and duration of use, and the size of the investment made by the undertakings in promoting it.”

81. I have already set out the opponent’s evidence in paragraphs 53 to 61 in my assessment of enhanced distinctiveness above.

82. As with enhanced distinctiveness, the earlier mark must be known by a significant part of the relevant UK public. I have already found above that the turnover figures for the ICON goods are not specific to the UK and the UK specific turnover figures are not specific to the ICON goods only. Further, neither set of figures show a breakdown of sales into the different goods/services that the mark is registered for. Once again, I

refer to the *Eros Bodyglide* case where global figures are only sufficient where there is only one good being sold. I have not been provided with sufficient sales evidence to enable me to find reputation for any of the goods and services registered for the earlier mark. Without sufficient reputation, the ground cannot succeed. The opposition under section 5(3) is, therefore, unsuccessful.

83. In any event, even if I had made a finding of reputation, given the opponent has been wholly successful in its claim under section 5(2)(b), this ground would not have taken its case any further.

Section 5(4)(a)

84. Section 5(4)(a) states:

“(4) A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented—

(a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, or

(b) [...]

A person thus entitled to prevent the use of a trade mark is referred to in this Act as the proprietor of an “earlier right” in relation to the trade mark”.

85. In *Discount Outlet v Feel Good UK*, [2017] EWHC 1400 IPEC, Her Honour Judge Melissa Clarke, sitting as a deputy Judge of the High Court, conveniently summarised the essential requirements of the law of passing off as follows:

“55. The elements necessary to reach a finding of passing off are the ‘classical trinity’ of that tort as described by Lord Oliver in the *Jif Lemon* case (*Reckitt & Colman Product v Borden* [1990] 1 WLR 491 HL, [1990] RPC 341, HL), namely goodwill or reputation; misrepresentation leading to deception or a likelihood of

deception; and damage resulting from the misrepresentation. The burden is on the Claimants to satisfy me of all three limbs.

56. In relation to deception, the court must assess whether "*a substantial number*" of the Claimants' customers or potential customers are deceived, but it is not necessary to show that all or even most of them are deceived (per *Interflora Inc v Marks and Spencer Plc* [2012] EWCA Civ 1501, [2013] FSR 21)."

86. As there is no evidence that the applicant has used its mark, the relevant date is the date on which the application was filed: 11 July 2023.

87. The House of Lords in *Inland Revenue Commissioners v Muller & Co's Margarine Ltd* [1901] AC 217 (HOL) provided the following guidance regarding goodwill:

"What is goodwill? It is a thing very easy to describe, very difficult to define. It is the benefit and advantage of the good name, reputation and connection of a business. It is the attractive force which brings in customers. It is the one thing which distinguishes an old-established business from a new business at its first start."

88. Goodwill arises as a result of trading activities, and whilst there has been clear trading by the opponent, what has not been made out in the evidence before me is the level of trading in the UK solely under the 'ICON' sign and specifically how that breaks down in relation to the goods and services relied upon (as I have already explained earlier in this decision). The opposition under section 5(4)(a) is, therefore, unsuccessful.

89. Even if I had found there to be goodwill in the 'ICON' sign, the only goods for which I have evidence showing sales (being the invoices) together with adverts are clothing goods. As I have already found there to be confusion under the section 5(2)(b) ground for all of the applied for goods and services, any goodwill for clothing would not improve the opponent's position.

Conclusion

90. The opposition under section 5(2)(b) is successful in its entirety and registration is refused for all of the applied for goods and services.

91. The claims under sections 5(3) and 5(4)(a) fail.

Costs

92. As the opponent has been successful in its section 5(2)(b) claim, it is entitled to a contribution towards its costs. Awards of costs are governed by Annex A of Tribunal Practice Notice ("TPN") 1/2023. In accordance with that TPN, I award the opponent the sum of £1500, calculated as follows:

Official fee	£200
Preparing the Notice of Opposition and considering the counterstatement	£350
Preparing evidence	£600
Preparing submissions in lieu	£350
Total	£1500

93. I order SUJ B.V. to pay DSQUARED2 TRADEMARKS LIMITED the sum of £1,500. This sum is to be paid within twenty-one days of the expiry of the appeal period or within twenty-one days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 30th day of June 2026

L Nicholas

For the Registrar