

BL O/0596/26

TRADE MARKS ACT 1994

IN THE MATTER OF UK REGISTRATION NO. 4055899

IN THE NAME OF LUME DEODORANT, LLC

IN RESPECT OF THE FOLLOWING TRADE MARK

**WHOLE BODY DEODORANT FOR PITS,
PRIVATES & BEYOND**

IN CLASS 3

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NUMBER 452507

BY UNILEVER GLOBAL IP LIMITED

BACKGROUND AND PLEADINGS

1. Lume Deodorant, LLC (“the applicant”) applied to register the trade mark displayed on the cover page of this decision in the UK on 24 May 2024 (UK trade mark no. (“UKTM”) 4055899), claiming a priority date of 19 January 2024 (based upon an American mark¹) (“the contested mark”). It was accepted and published in the Trade Marks Journal on 13 December 2024 in respect of the following goods:

Class 3 Deodorants for human beings; deodorant cream and odor removal creams for personal use; non-medicated toiletry preparations; body wash; deodorant body wash; disposable wipes impregnated with deodorizing chemicals or compounds for personal hygiene; antiperspirants.

2. On 14 February 2025, Unilever Global IP Limited (“the opponent”) opposed the trade mark on the basis of Section 3(1)(b) and (c) of the Trade Marks Act 1994 (“the Act”).

3. In its statement of grounds, in respect of its claim under 3(1)(b), the opponent states:

“The applied-for mark has a clear descriptive meaning (as referenced below under [sic] Section 3(1)(c) Trade Marks Act 1994), and thus it is necessarily also devoid of distinctive character. Separate to a finding of descriptiveness, the applied-for mark does not possess the minimum degree of distinctiveness to be registered as a UK trade mark for the proposed goods in class 3. It is devoid of any distinctive character and should thus be refused registration under Section 3(1)(b) Trade Marks Act 1994.”

4. In its statement of grounds, in respect of its claim under 3(1)(c), the opponent states:

“The applied-for mark consists exclusively of a sign which designates, among other things, the nature and intended purpose of the covered goods. "WHOLE BODY DEODORANT FOR PITS, PRIVATES & BEYOND" is a direct reference to a deodorant intended to be applied to the entire body. The average consumer

¹ United States of America TM No. 98365418

would, immediately and without any further reflection, perceive the applied-for mark as designating the goods it covers. Given the obvious and direct information the applied-for mark conveys, it is objectionable under Section 3(1)(c) Trade Marks Act 1994. It has a clear descriptive meaning and cannot fulfil the essential function of a trade mark, which is to indicate origin.”

5. The applicant filed a defence and counterstatement denying the claims made.

6. The applicant is represented by Kilburn & Strobe LLP and the opponent by Baker & McKenzie LLP. Both parties filed evidence during the evidential rounds. Neither party requested a hearing, though both elected to file written submissions in lieu.

RELEVANCE OF EU LAW

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

EVIDENCE AND SUBMISSIONS

8. The opponent filed evidence in chief in the form of a witness statement of Ms Kerri Ann Hazzard, Chartered Trade Mark Attorney at Baker & McKenzie LLP, dated 8 July 2025 accompanied by exhibits KAH1 – KAH6.

9. The applicant filed evidence in chief in the form of a witness statement of Mr Adam Smith, Trade Mark Assistant at Kilburn & Strobe LLP, dated 8 September 2025 accompanied by exhibits AS1 – AS4.

10. The applicant filed written submissions dated 3 December 2025.

11. The opponent filed written submissions dated 3 December 2025.

12. I have given due consideration to all of the documents filed by both parties but will only refer to the evidence/submissions to the extent that is necessary in my decision.

LEGISLATION

13. Sections 3(1)(b) and 3(1)(c) read as follows:

“3.— Absolute grounds for refusal of registration

(1) The following shall not be registered—

(a) [...]

(b) trade marks which are devoid of any distinctive character.

(c) trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of services, or other characteristics of goods or services,

(d) [...]

Provided that, a trade mark shall not be refused registration by virtue of paragraph (b), (c) or (d) above if, before the date of application for registration, it has in fact acquired a distinctive character as a result of the use made of it”.

14. The relevant date for assessment under 3(1)(b) and 3(1)(c) is the date of filing of the contested mark, i.e. 24 May 2024.

15. I bear in mind that the above grounds are independent and have differing general interests. It is possible, for example, for a mark not to fall foul of section 3(1)(c) but still to be objectionable under section 3(1)(b).²

16. The position under the above grounds must be assessed from the perspective of the average consumer, who is deemed to be reasonably observant and circumspect.³ In the present case, I consider the parties’ goods to be consumer items aimed at the

² *SAT.1 SatellitenFernsehen GmbH v OHIM*, Case C-329/02 P at [25]

³ *Matratzen Concord AG v Hukla Germany SA*, Case C-421/04

general public. The goods will be inexpensive and frequently purchased. Consumers will consider the fragrance, ingredients and suitability for their skin and needs when purchasing the goods. On the whole, no more than a medium degree of attention will be paid to the purchase.

EVIDENCE ASSESSMENT

Evidence in chief - Witness statement of Ms Kerri Ann Hazzard for the opponent

17. Ms Hazzard is a Trade Mark Attorney at the opponent's representative. I take the following from Ms Hazzard's evidence:

- Ms Hazzard has carried out an online search to illustrate that the applicant's mark is commonly used in relation to deodorants, and she states that it is therefore descriptive and non-distinctive, and cannot function as a trade mark.
- Screenshots are provided⁴ which show the applicant's use of the mark. Ms Hazzard states that "the words "outrageously effective whole body deodorant" and "deodorant for private parts" are being used by the Applicant to communicate information to the consumer about the nature of the goods". Ms Hazzard has also provided a screenshot from the site showing how the product can be used on the whole body:

⁴ Exhibits KAH1 and KAH2

THE SOURCE OF BODY ODOR? BACTERIA!

Body odor is caused by bacteria eating your sweat—this bacteria thrives in any body crease tight enough to hold a pencil.



- ✓ Arm pits (obviously)
- ✓ Breasts - male OR female (let's be real)
- ✓ Between your toes (foot funk)
- ✓ Between your legs (netherodor)
- ✓ Under muffin tops (hey, we all got 'em)
- ✓ Anywhere that can hold a pencil (yeah, it's kinda weird)

Lume effectively blocks bacteria from digesting fluids on your skin, like sweat, so they can't produce odor. Rather than neutralizing or covering up odor after it forms like certain other deodorants, Lume is a pre-odorant that blocks odor from happening in the first place.

TRY LUME

- Extracts have been provided from various UK online retailers such as Boots, iHerb, Amazon, This is Beauty, Nordstrom and Fruugo which show that “whole body deodorant” is used by various brands⁵. I note that none of this evidence is dated prior to the relevant date. An extract has also been provided from a brand called ‘Secret’, showing their use of “pits to private parts” in the context of whole body deodorant⁶. I note that the spelling of ‘odor’ is the spelling common to the USA, and therefore I assume that this advert was not aimed at UK consumers:

PRODUCTS ▾
DEODORANT ADVISOR
ARTICLES
Secret
ABOUT SECRET ▾
CONTACT US
AdChoices

What Is Secret Whole Body Deodorant?



Combat Body Odor from Pits to Privates

⁵ Exhibit KAH3

⁶ Exhibit KAH4

- Ms Hazzard has provided a copy of the EUIPO refusal for the applicant's mark. I am not bound by the decisions of other offices and therefore will not consider this further.⁷

Evidence in chief - Witness statement of Adam Smith for the applicant

18. Mr Smith is a Trade Mark Assistant at the applicant's representative. I take the following from Mr Smith's evidence:

- When the application to register the mark was made, the trade mark examiner refused the application on the basis that the average consumer would perceive the mark as descriptive. A hearing subsequently took place on 1 October 2024, and the application was allowed to proceed. A copy of the Hearing Officer's decision has been provided⁸. Whilst I note the content of this decision, I am not bound by the outcome of an Ex Parte hearing, and I must consider the matter afresh in accordance with the authorities.⁹ Therefore, I will not consider this further.
- Search results have been provided showing the use of the word, BEYOND, in registrations which appear on the UK trade mark register. Trade marks which are already registered ("state of the register evidence") do not impact the assessment that I must undertake, and therefore I will not consider this further.¹⁰
- Screenshots have been provided from www.amazon.co.uk, showing a Depploo branded product called "whole body deodorant". The screenshots show that the product is not available for purchase in the UK, and that it has not received any customer reviews¹¹. I also note that this is undated:

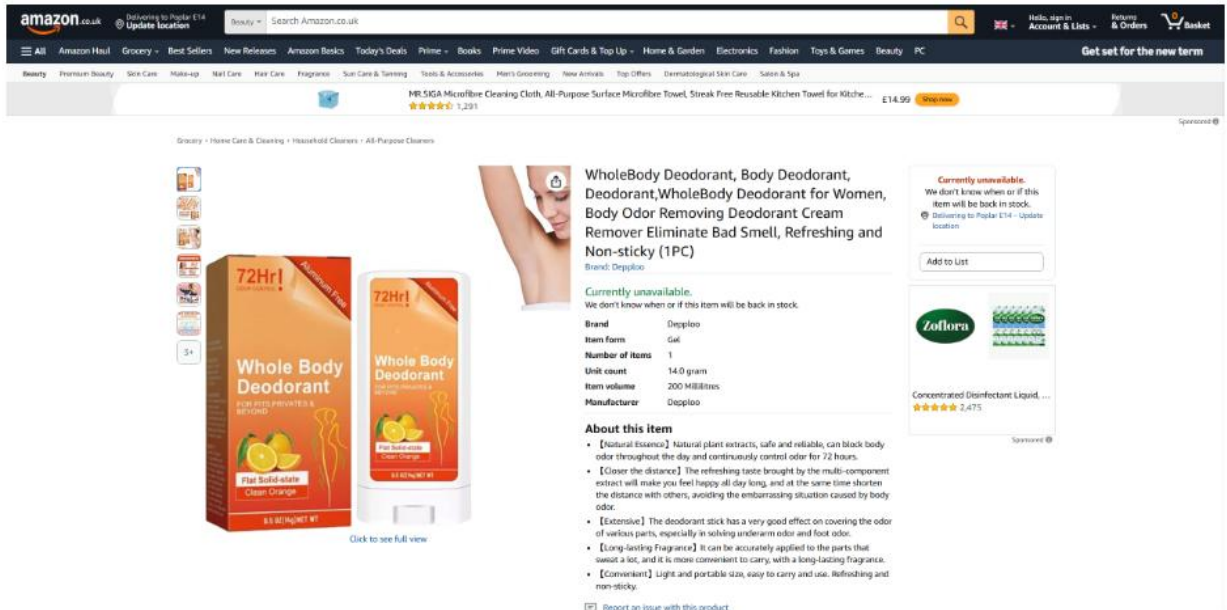
⁷ See, for example, the decision of Mr Philip Harris, sitting as the Appointed Person, in

⁸ Exhibit AS1 *Nomad Foods Europe Limited v International Foodstuffs Co. LLC*, BL O/1148/23

⁹ See, for example, the decision of Mr Iain Purvis KC, sitting as the Appointed Person, in *Swiss Research Labs Limited v Bauer Holdings Limited*, BL O/1020/22

¹⁰ See the decision of Mr James Mellor QC (as he then was) in *BREXIT Trade Mark Application*, BL O/0262/18 and the case law cited therein

¹¹ Exhibit AS3



- Screenshots have also been provided from www.fruugo.co.uk, showing various 'Eelhoe' branded products. I note that this evidence is undated. The exhibit also features screenshots from the websites www.amazon.co.uk and www.lumedeodorant.com, showing Lume Deodorant LLC's WHOLE BODY DEODORANT, FOR PITS, PRIVATES & BEYOND, and a comparison of the respective product images¹², as follows:

www.fruugo.co.uk – Eelhoe Branded Products 	www.amazon.co.uk – Lume Branded Products 
www.fruugo.co.uk – Eelhoe Branded Products 	www.lumedeodorant.com – Lume Branded Products 

DECISION

Section 3(1)(c)

19. I will start with the section 3(1)(c) ground because this goes to the heart of the opponent's case, which is that the applicant's mark has a descriptive meaning in relation to the goods in the application, as it is used to identify a deodorant intended to be applied to the entire body, which the opponent submits is the object of the goods and their intended purpose.

20. The case law under section 3(1)(c) (corresponding to article 7(1)(c) of the EUTM Regulation, formerly article 7(1)(c) of the CTM Regulation) was set out by Arnold J. (as he then was) in *Starbucks (HK) Ltd v British Sky Broadcasting Group Plc* [2012] EWHC 3074 (Ch) as follows:

“91. The principles to be applied under art.7(1)(c) of the CTM Regulation were conveniently summarised by the CJEU in *Agencja Wydawnicza Technopol sp. z o.o. v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)* (C-51/10 P) [2011] E.T.M.R. 34 as follows:

“33. A sign which, in relation to the goods or services for which its registration as a mark is applied for, has descriptive character for the purposes of Article 7(1)(c) of Regulation No 40/94 is – save where Article 7(3) applies – devoid of any distinctive character as regards those goods or services (as regards Article 3 of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ 1989 L 40, p. 1), see, by analogy, [2004] ECR I-1699, paragraph 19; as regards Article 7 of Regulation No 40/94, see *Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) v Wm Wrigley Jr Co* (C-191/01 P) [2004] 1 W.L.R. 1728 [2003] E.C.R. I-12447; [2004] E.T.M.R. 9; [2004] R.P.C. 18, paragraph 30, and the order in *Streamserve v OHIM* (C-150/02 P) [2004] E.C.R. I-1461, paragraph 24).

36. ... due account must be taken of the objective pursued by Article 7(1)(c) of Regulation No 40/94. Each of the grounds for refusal listed in Article 7(1) must be interpreted in the light of the general interest underlying it (see, inter alia, *Henkel KGaA v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)* (C-456/01 P) [2004] E.C.R. I-5089; [2005] E.T.M.R. 44, paragraph 45, and *Lego Juris v OHIM* (C-48/09 P), paragraph 43).

37. The general interest underlying Article 7(1)(c) of Regulation No 40/94 is that of ensuring that descriptive signs relating to one or more characteristics of the goods or services in respect of which registration as a mark is sought may be freely used by all traders offering such goods or services (see, to that effect, *OHIM v Wrigley*, paragraph 31 and the case-law cited).

38. With a view to ensuring that that objective of free use is fully met, the Court has stated that, in order for OHIM to refuse to register a sign on the basis of Article 7(1)(c) of Regulation No 40/94, it is not necessary that the sign in question actually be in use at the time of the application for registration in a way that is descriptive. It is sufficient that the sign could be used for such purposes (*OHIM v Wrigley*, paragraph 32; *Campina Melkunie*, paragraph 38; and the order of 5 February 2010 in *Mergel and Others v OHIM* (C-80/09 P), paragraph 37).

39. By the same token, the Court has stated that the application of that ground for refusal does not depend on there being a real, current or serious need to leave a sign or indication free and that it is therefore of no relevance to know the number of competitors who have an interest, or who might have an interest, in using the sign in question (*Joined Cases C-108/97 and C-109/97 Windsurfing Chiemsee* [1999] ECR I-2779, paragraph 35, and *Case C-363/99 Koninklijke KPN Nederland* [2004] ECR I-1619, paragraph 38). It is, furthermore, irrelevant whether there are other, more usual, signs than that at issue for designating the

same characteristics of the goods or services referred to in the application for registration (*Koninklijke KPN Nederland*, paragraph 57).

And

46. As was pointed out in paragraph 33 above, the descriptive signs referred to in Article 7(1)(c) of Regulation No 40/94 are also devoid of any distinctive character for the purposes of Article 7(1)(b) of that regulation. Conversely, a sign may be devoid of distinctive character for the purposes of Article 7(1)(b) for reasons other than the fact that it may be descriptive (see, with regard to the identical provision laid down in Article 3 of Directive 89/104, *Koninklijke KPN Nederland*, paragraph 86, and *Campina Melkunie*, paragraph 19).

47. There is therefore a measure of overlap between the scope of Article 7(1)(b) of Regulation No 40/94 and the scope of Article 7(1)(c) of that regulation (see, by analogy, *Koninklijke KPN Nederland*, paragraph 67), Article 7(1)(b) being distinguished from Article 7(1)(c) in that it covers all the circumstances in which a sign is not capable of distinguishing the goods or services of one undertaking from those of other undertakings.

48. In those circumstances, it is important for the correct application of Article 7(1) of Regulation No 40/94 to ensure that the ground for refusal set out in Article 7(1)(c) of that regulation duly continues to be applied only to the situations specifically covered by that ground for refusal.

49. The situations specifically covered by Article 7(1)(c) of Regulation No.40/94 are those in which the sign in respect of which registration as a mark is sought is capable of designating a 'characteristic' of the goods or services referred to in the application. By using, in Article 7(1)(c) of Regulation No 40/94, the terms 'the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service, or other characteristics of the goods or service', the legislature made it clear, first, that the kind, quality,

quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service must all be regarded as characteristics of goods or services and, secondly, that that list is not exhaustive, since any other characteristics of goods or services may also be taken into account.

50. The fact that the legislature chose to use the word 'characteristic' highlights the fact that the signs referred to in Article 7(1)(c) of Regulation No 40/94 are merely those which serve to designate a property, easily recognisable by the relevant class of persons, of the goods or the services in respect of which registration is sought. As the Court has pointed out, a sign can be refused registration on the basis of Article 7(1)(c) of Regulation No 40/94 only if it is reasonable to believe that it will actually be recognised by the relevant class of persons as a description of one of those characteristics (see, by analogy, as regards the identical provision laid down in Article 3 of Directive 89/104, *Windsurfing Chiemsee*, paragraph 31, and *Koninklijke KPN Nederland*, paragraph 56)."

21. In addition, a sign is caught by the exclusion from registration in art.7(1)(c) if at least one of its possible meanings designates a characteristic of the goods or services concerned: see *OHIM v Wrigley* [2003] E.C.R. I-12447 at [32] and *Koninklijke KPN Nederland NV v Benelux-Merkenbureau* (C-363/99 [2004] E.C.R. I-1619; [2004] E.T.M.R. 57 at [97].

22. The words used within the applicant's mark are English dictionary words, and I have no doubt that the consumer will be familiar with the same. The definition of the words in the mark (according to Collins English Dictionary) has been set out in Exhibit KAH5 and is broken down in the opponent's written submissions as follows:

“Whole: containing all the component parts necessary to form a total; complete; all the parts, elements, etc, of a thing; a thing complete in itself

Body: the entire physical structure of an animal or human being

Deodorant: a substance applied to the body to suppress or mask the odour of perspiration or other body odours

For: in order to get or achieve

Pit[s]: anatomy: a small natural depression on the surface of a body, organ, structure, or part

Privates: see private parts: euphemistic terms for genitals

&: ampersand, representing "and"

Beyond: at or to a point on the other side of; at or to the further side of. Or as an adverb to mean "in addition to".

23. The applicant states:

“When considered as a whole, it is clear that the element "& BEYOND" creates dissonance within the mark. "& BEYOND" is sufficiently ambiguous and open to interpretation, that it will set off a cognitive process in the mind of the consumer. "BEYOND" is not specific, precise or objective. It requires a degree of thought to interpret any meaning. What is beyond? Where is beyond? Beyond is indefinite. As a result, the mark as a whole does not send a clear and direct message but would rather be considered a unique phrase without meaning (see the UKIPO Hearing Report at Exhibit AS1, page 5). As a result of this ambiguity the mark as a whole must also be considered as more than merely a sum of its parts (Case C-265/00 (BIOMILD)).”

24. I bear in mind that for any mark to be considered descriptive within the meaning of section 3(1)(c) there must be a direct link between the mark and the goods to such an extent that consumers would *immediately* see it as descriptive of a characteristic of the goods at issue. The applicant submits that the word “beyond” is ambiguous which renders the mark open to interpretation, meaning that it cannot be descriptive of the goods.

25. I agree with the definition of ‘pits’ and ‘privates’ as set out above and consider that the vast majority of average consumers are likely to define these words in the same

way. Whilst I accept that 'beyond' isn't typically used to describe the body, in the context of the mark as a whole, and particularly given that the mark starts with the words, WHOLE BODY DEODORANT, I believe that 'beyond' is likely to be interpreted as the rest of the body and this is reinforced by the words WHOLE BODY appearing in the mark. There are issues with the evidence in that it is undated, however, it seems to show that the words WHOLE BODY DEODORANT are quite frequently adopted by traders in respect of goods such as deodorants which are used all over the body. There is also evidence of another brand using the words "pits to private parts" in the context of whole body deodorant, although I consider this evidence to be light.

26. In the context of the mark as a whole, I do not agree that the word "beyond" is ambiguous. I find the mark to be descriptive of the goods within the specification, all of which are for personal hygiene and deodorising the body, as I do not consider that the average consumer would be in any doubt as to what the goods are, or their intended purpose, upon reviewing the mark. I find that the mark sends a clear and direct message, and the opposition therefore succeeds under section 3(1)(c). In case I am wrong about that, I will move on to consider section 3(1)(b).

Section 3(1)(b)

27. I now turn to the application under section 3(1)(b) of the Act. Section 3(1)(b) prevents registration of marks which are devoid of distinctive character. The principles to be applied under article 7(1)(b) of the CTM Regulation (which is now article 7(1)(b) of the EUTM Regulation, and is identical to article 3(1)(b) of the Trade Marks Directive and s.3(1)(b) of the Act) were conveniently summarised by the CJEU in *OHIM v BORCO-Marken-Import Matthiesen GmbH & Co KG*¹³ as follows:

"29..... the fact that a sign is, in general, capable of constituting a trade mark does not mean that the sign necessarily has distinctive character for the purposes of Article 7(1)(b) of the regulation in relation to a specific product or service (Joined Cases C-456/01 P and C-457/01 P *Henkel v OHIM* [2004] ECR I-5089, paragraph 32).

¹³ (C-265/09 P)

30. Under that provision, marks which are devoid of any distinctive character are not to be registered.

31. According to settled case-law, for a trade mark to possess distinctive character for the purposes of that provision, it must serve to identify the product in respect of which registration is applied for as originating from a particular undertaking, and thus to distinguish that product from those of other undertakings (*Henkel v OHIM*, paragraph 34; Case C-304/06 P *Eurohypo v OHIM* [2008] ECR I-3297, paragraph 66; and Case C-398/08 P *Audi v OHIM* [2010] ECR I-0000, paragraph 33).

32. It is settled case-law that that distinctive character must be assessed, first, by reference to the goods or services in respect of which registration has been applied for and, second, by reference to the perception of them by the relevant public (*Storck v OHIM*, paragraph 25; *Henkel v OHIM*, paragraph 35; and *Eurohypo v OHIM*, paragraph 67). Furthermore, the Court has held, as OHIM points out in its appeal, that that method of assessment is also applicable to an analysis of the distinctive character of signs consisting solely of a colour per se, three-dimensional marks and slogans (see, to that effect, respectively, Case C 447/02 P *KWS Saat v OHIM* [2004] ECR I-10107, paragraph 78; *Storck v OHIM*, paragraph 26; and *Audi v OHIM*, paragraphs 35 and 36).

33. However, while the criteria for the assessment of distinctive character are the same for different categories of marks, it may be that, for the purposes of applying those criteria, the relevant public's perception is not necessarily the same in relation to each of those categories and it could therefore prove more difficult to establish distinctiveness in relation to marks of certain categories as compared with marks of other categories (see Joined Cases C-473/01 P and C-474/01 P *Proctor & Gamble v OHIM* [2004] ECR I-5173, paragraph 36; Case C-64/02 P *OHIM v Erpo Möbelwerk* [2004] ECR I-10031, paragraph 34; *Henkel v OHIM*, paragraphs 36 and 38; and *Audi v OHIM*, paragraph 37).

28. Where a mark is descriptive for goods/services, it necessarily lacks the required distinctiveness to avoid objection under section 3(1)(b). In this instance, I consider that the phrase FOR PITS, PRIVATES AND BEYOND will be perceived as a slogan which

tells you what the product is for, whilst WHOLE BODY DEODORANT is descriptive of the goods themselves. Consequently, the contested mark is prima facie devoid of distinctive character under section 3(1)(b) in relation to the goods within the application. Even if I am wrong about my finding under section 3(1)(c), I consider that it would still be caught by section 3(1)(b).

Acquired distinctiveness

29. I now turn to consider whether the applicant has established acquired distinctiveness for the goods in class 3. The Court of Justice of the European Union ("CJEU") provided guidance in *Windsurfing Chiemsee*, joined cases C-108 & C-109/97, about the correct approach with regard to the assessment of the acquisition of distinctive character through use. The guidance is as follows:

"51. In assessing the distinctive character of a mark in respect of which registration has been applied for, the following may also be taken into account: 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 class of persons who, because of the mark, identify goods as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations.

52. If, on the basis of those factors, the competent authority finds that the relevant class of persons, or at least a significant proportion thereof, identify goods as originating from a particular undertaking because of the trade mark, it must hold that the requirement for registering the mark laid down in Article 3(3) of the Directive is satisfied. However, the circumstances in which that requirement may be regarded as satisfied cannot be shown to exist solely by reference to general, abstract data such as predetermined percentages.

53. As regards the method to be used to assess the distinctive character of a mark in respect of which registration is applied for, Community law does not preclude the competent authority, where it has particular difficulty in that connection, from having recourse, under the conditions laid down by its own

national law, to an opinion poll as guidance for its judgment (see, to that effect, Case C-210/96 *Gut Springenheide and Tusky* [1998] ECR I-4657, paragraph 37).”

30. The applicant has provided limited evidence in respect of this matter, the majority of which relates to screenshots from websites such as Amazon and Fruugo showing its product alongside similar products which are also labelled as ‘whole body deodorant’. Whilst the applicant’s evidence indicates that it sells goods within class 3, I have no further evidence from the applicant and no breakdown of sales relating to these goods has been provided. I also note that the evidence I do have is undated. I do not, therefore, consider that the applicant has established that its mark had acquired distinctiveness prior to the relevant date through use in relation to its class 3 goods.

CONCLUSION

31. The opposition succeeds in full and, subject to any successful appeal, the applicant’s mark is refused.

COSTS

32. The opponent has been successful and is entitled to a contribution towards its costs in line with TPN 1/2023. In the circumstances I award the opponent the sum of £1,550.00 as a contribution towards the cost of the proceedings. The sum is calculated as follows:

Filing a notice of opposition and considering the applicant’s counterstatement:	£300
Preparing evidence and considering the applicant’s evidence	£600
Preparing submissions in lieu and considering the applicant’s submissions	£450
Official fee:	£200
Total:	£1,550.00

33. I therefore order Lume Deodorant, LLC to pay Unilever Global IP Limited the sum of £1,550.00. The above sum should 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 9th day of July 2026

LA Bailey

For the Registrar