

O/0638/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. 4152667

IN THE NAME OF BONZA CREATIONS LTD
TO REGISTER THE FOLLOWING TRADE MARK:



IN CLASS 42

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NO. 454154

BY

BONZA MUSIC LTD

Background and pleadings

1. Bonza Creations Ltd (“the applicant”) applied to register the trade mark shown on the cover of this decision (UK trade mark (“UKTM”) no: UK4152667) in the UK on 26 January 2025. It was accepted and published in the Trade Marks Journal on 14 February 2025 in respect of *Product design* in class 42.

2. On 13 May 2025, Bonza Music Ltd (“the opponent”) opposed the trade mark application on the basis of Section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). For the purposes of this opposition, it relies upon its earlier UK trade mark, ‘BONZA’ (UKTM No: UK 4110360) filed on 10 October 2024 and registered on 17 January 2025. The mark is registered for goods/services in classes 9, 15, 38, 41 and 42, however, only the following services are relied upon for the purpose of this opposition:

Class 42 Design services; design and development of computer hardware and software.

3. Under section 5(2)(b) of the Act, the opponent claims that there is a likelihood of confusion on the basis that the marks are similar, and the services are either identical or highly similar leading to a likelihood of confusion, including a likelihood of association. The opponent submits as follows:

“The Opponent's Earlier Mark consists solely of the word 'BONZA'. The Application Mark contains the identical word 'BONZA' as its first and most prominent element. It is clear the Opponent's Earlier Mark is entirely subsumed within the Application Mark. The additional word element 'CREATIONS' is descriptive in the context of class 42 design services and does not materially alter the overall impression of the Application Mark. As such, the word 'BONZA' is the dominant and distinctive [sic] element in both marks. The Application Mark is therefore highly similar to the Earlier Mark, both visually and aurally, and identical conceptually. The class 42 services covered by the Application Mark are identical, or highly similar, to those for which the Earlier Mark is registered. In particular, 'product design' clearly falls within the scope of the Opponent's class 42 'design services'. Given the high degree of similarity between the marks and the identity or high similarity of the services, there exists

a likelihood of confusion on the part of the public, including a likelihood of association. The average consumer is likely to believe that the services provided under the Application Mark originate from the same undertaking as, or are economically linked to, the Opponent. Registration of the Application Mark would therefore be contrary to Section 5(2)(b) of the Trade Marks Act 1994. The Opponent respectfully requests that the Application be refused in its entirety and that an award of costs be made in favour of the Opponent”.

4. The applicant filed a counterstatement denying the claims made and stating as follows:

“1. The Applicant’s mark is a compound figurative mark comprising:

- A distinctive, abstract dot-matrix graphic icon in a symmetrical grid; and
- The word element “Bonza Creations”, where “Creations” differentiates the brand and clarifies the services.

2. The Opponent’s mark, BONZA (word-only), has no graphic or design elements. Under Section 5(2)(b), the marks must be compared as a whole – visual, aural, and conceptual – not dissected into parts.

3. Visually, the Applicant’s mark is dominated by its graphic icon. The phrase “Bonza Creations” gives a distinct impression, and “Creations” materially distinguishes it from the Opponent’s plain word mark.

4. In services, the Applicant’s Class 42 filing is for product design, while the Opponent’s mark covers software, development, and hosting, ut [sic] not product design. These are materially distinct sectors with no realistic overlap of likelihood of confusion.

5. The Applicant denies any likelihood of confusion or association. The marks differ visually, conceptually and contextually. The average consumer will exercise attention and will not assume a connection.

6. The Applicant denies any unfair advantage, dilution, or misrepresentation. The application was filed transparently and in good faith.

7. Accordingly, the Applicant respectfully requests that the opposition be dismissed, with no award of costs”.

5. In accordance with section 6 of the Act, the mark relied upon by the opponent is considered an earlier mark. The mark had not been registered for five years as at the date of application for the contested mark and so, in accordance with section 6A of the Act, it is not subject to proof of use; the opponent may rely upon all the services of its registration as claimed.

Representation

6. The opponent is represented by HEPWORTH BROWNE. The applicant is self-represented. Only the applicant filed evidence during the proceedings. Neither party requested a hearing, however both parties filed written submissions in lieu. The parties’ submissions will be referred to as and where appropriate in this decision. This decision is taken following a careful perusal of the papers.

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 & Submissions

8. The opponent filed written submissions dated 11 August 2025.

9. The applicant’s evidence consists of the witness statement of Mr Wayne Stevens, dated 2 December 2025, which is accompanied by exhibits WS1 – WS4. Mr Stevens is the Director of Bonza Creations Ltd, and he provides evidence of the design of the contested mark and third-party use of the word, Bonza. I have read Mr Stevens’ evidence in its entirety.

10. The applicant has also filed written submissions alongside its evidence in chief, dated 2 December 2025.

11. The opponent has filed written submissions dated 5 February 2026.

12. Both parties filed written submissions in lieu on 10 March 2026.

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

Preliminary Issues

14. I have reviewed the content of Mr Stevens' witness statement and note that he has provided evidence of the background of the company and how the mark came to be designed, the applicant's use of the mark, along with evidence of the way that 'Bonza' is used commercially.

15. In this instance, the applicant's evidence is not relevant as the assessment I must undertake under section 5(2)(b) is a notional one; the provisions of the Act are not merely a reflection of what is happening in the market.¹ When assessing the likelihood of confusion in the context of registering a new trade mark, it is necessary to consider all of the circumstances in which the mark might be used if it were registered.² My assessment must take into account only the contested mark, its specification, and any potential conflict with the earlier mark. Therefore, I will not comment any further upon this evidence.

Decision

Section 5(2)(b)

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

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

¹ *Compass Publishing BV v Compass Logistics Ltd* [2004] RPC 41

² *O2 Holdings Limited, O2 (UK) Limited v Hutchison 3G UK Limited*, Case C-533/06, paragraph 66

(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”.

17. Section 5A of the Act states as follows:

“Where grounds for refusal of an application for registration of a trade mark exist in respect of only some of the goods or services in respect of which the trade mark is applied for, the application is to be refused in relation to those goods and services only.”

Relevant law

18. The following standard summary of the principles applicable to the assessment of the likelihood of confusion was approved by the Supreme Court in *Iconix Luxembourg Holdings SARL v Dream Pairs Europe Inc & Anor*, [2025] UKSC 25:

(a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors;

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

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

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

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

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

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

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

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

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

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

Comparison of services

19. The competing services are as follows:

The opponent's services	The applicant's services
Class 42 - Design services; design and development of computer hardware and software.	Class 42 – Product design.

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

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

Class 42

Product design.

21. The services in the applicant’s specification are product design services which fall within *design services* in the opponent’s specification in class 42. The services are, therefore, identical on the principles outlined in *Meric*.

22. The applicant has submitted a fall-back position within their written submissions in lieu in respect of the similarity of the services, as follows:

“Without prejudice to the Applicant’s primary position that the respective services are dissimilar and that there is no likelihood of confusion, the Applicant confirms that, if the Hearing Officer were to consider there to be any similarity between the services as presently specified, the Applicant would be willing to limit its specification to:

“Product design relating to physical consumer goods and educational games, excluding the design and development of computer software and digital platforms.”

The Applicant submits that such a limitation would remove any possible overlap within the Opponent’s specification and would eliminate any residual risk of confusion”.

23. For completeness, even if I accepted the applicant's fall-back position, I would still find the services to be identical. This is because the opponent's specification covers design services at large, which would encompass the applicant's proposed specification. Consequently, I would reach the same conclusion of identity in accordance with Meric.

Average consumer and the purchasing act

24. 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.

25. 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.

26. The opponent submits:

"The Average Consumer is a well-established legal construct. The services of both the Opponent and the Applicant can be purchased by the general public."

27. The applicant submits:

"The average consumer for professional product design services is a business professional, exercising a high degree of attention. The Applicant's and Opponent's services differ in audience, consumer mindset, and trade channels".

28. I consider that the average consumer of the services at issue will predominantly be a business or professional user, although I do not exclude members of the general public. The frequency and cost of purchase of the services at issue will likely vary; with some being relatively high, and consumers are likely to be alive to considerations such as the reputation of the service provider, business compatibility and the suitability of the services to their needs. The level of attention will vary depending on the level of the service requested, but given the potentially large sums at issue, coupled with the need to ensure, for example, compatibility with existing products and specification, I consider that the level of attention will be reasonably high, though not at the very highest level.

29. The purchasing process itself is likely to be primarily visual, involving inspection of websites and brochures. However, I also consider that aural considerations will play a role, for example in discussions with designers.

Comparison of marks

30. 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 Court of Justice of the European Union 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.”

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

32. The respective trade marks are shown below:

Earlier trade mark	Contested trade mark
BONZA	 The logo for 'BONZA Creations' features a stylized graphic of dots arranged in a grid-like pattern to the left of the word 'BONZA' in a bold, sans-serif font. Below 'BONZA' is the word 'Creations' in a smaller, lowercase, sans-serif font.

33. The opponent submits:

“Visual Similarity

14. The Earlier mark is a word mark with no stylisation or addition and provides the broadest protection, as is well expressed in the case law. The Contested Mark is a figurative mark with minimal stylisation consisting of a series of black circles in various sizes in a circular shape next to the words Bonza Creations. This stylisation is merely decorative and lacks distinctiveness.

15. The word “Bonza” is shown in a larger font than “Creations” making it the first and most prominent element of the Contested Mark.

16. The first word of the Contested Mark is identical to the entirety of the Opponent’s. The Earlier Mark is subsumed within the Contested Mark.

17. The addition of the word “Creations” by the Applicant is purely descriptive for the services being offered and adds no distinctiveness to the Contested Mark.

18. The word BONZA is the dominant and distinctive element of both Marks.”

34. The applicant submits:

“3. The Respective Marks

The Applicant’s mark is a figurative mark comprising a distinctive dot-matrix graphical device and the words “Bonza Creations” presented as a unified expression. The Opponent’s mark is a word mark consisting solely of BONZA, with no graphical or figurative elements.

4. Dominant and Distinctive Elements of the Applicant’s Mark

Contrary to the Opponent’s claim, the Applicant’s mark is visually dominated by its distinctive dot-matrix graphical device, which forms the central and most prominent aspect of the mark’s overall impression.

5. Visual, Aural, and Conceptual Comparison

Visual: The marks differ fundamentally. The Opponent's mark is a plain word; the Applicant's mark combines a distinctive device with two words, creating a different overall impression.

Aural: The Applicant's mark contains two words ("Bonza Creations"), reducing aural similarity compared to the single word "Bonza".

Conceptual: "Bonza Creations" conveys creation and design of physical products; the Opponent's mark conveys no equivalent concept and is not limited to any specific field."

Overall impression

35. The earlier mark is presented in a plain typeface and is a word only mark consisting of the word 'BONZA'. There are no other elements contributing to the mark and so the overall impression lies in the entirety of the word.

36. The contested mark comprises of the words 'Bonza Creations'. BONZA appears above CREATIONS in a plain bold font, whilst CREATIONS is not in bold and is smaller. To the left of the words is a graphic device which is made up of multiple black dots arranged in a circular, symmetrical pattern.

37. I remind myself that, according to well-established case law, where a mark consists of both word and figurative elements, the word elements will generally have a greater impact on consumers than the figurative elements, as consumers are more likely to remember and use the word elements to identify the mark, whereas figurative elements may be perceived as decorative or secondary features.³ Whilst the device contributes to the overall impression, I find that the word BONZA makes the greatest contribution by virtue of its size, position and the fact that consumers are likely to use it to identify and refer to the services. The CREATIONS element, whilst contributing, plays a lesser role as I find this to be allusive for the services covered within the

³ *Migros-Genossenschafts-Bund v EUIPO – Luigi Lavazza (CReMESPRESSO)*, Case T-189/16, paragraph 52

specification. The device contributes to the mark overall, but to a lesser extent as it will be seen as a decorative element.

Visual similarity

38. The respective marks overlap to the extent that they both share the word, BONZA. The visual differences arise from the device in the contested mark and the use of the word, CREATIONS. However, for the reasons set out above, I have found the dominant and distinctive element of both marks to be the word, BONZA. Weighing up the similarities against the differences, I consider that the marks are visually similar to between a medium and high degree.

Aural Similarity

39. Since no articulation will be given to the device element of the contested mark, I consider that each mark will be referred to by reference to the words only. Both marks consist of the word, BONZA, which is a two-syllable word and will be pronounced BONZA. The contested mark consists of two words, BONZA CREATIONS, with the aural difference arising from the word, CREATIONS, which is a dictionary word which will be pronounced in the usual way. Overall, I find the marks to be aurally similar to a medium degree.

Conceptual similarity

40. The opponent submits as follows:

"The Opponent contends that the Earlier Mark and the Application Mark are conceptually similar to a high degree. Both marks are anchored by the element "BONZA", which forms the core and dominant conceptual impression in each case. The term "CREATIONS" in the Application Mark functions merely as a descriptive qualifier, indicating the nature or type of goods or services, rather than introducing any new or distinctive conceptual content. As such, the addition of "CREATIONS" does not materially alter the concept conveyed to the average consumer. The Opponent submits that the overall impression left by

both marks is that of "BONZA", with "CREATIONS" simply denoting that the goods or services are the creations or products associated with "BONZA". Consequently, the conceptual identity of the marks remains effectively the same, and the presence of "CREATIONS" is insufficient to dispel the strong conceptual similarity between them."

41. For a conceptual message to be relevant it must be capable of immediate grasp by the average consumer.⁴ The assessment must, therefore, be made from the point of view of the average consumer.

42. I consider that a significant proportion of consumers will view BONZA as being a made-up word and it will not convey any meaning. As such, this element is rendered conceptually neutral to a significant proportion of consumers.

43. The applicants mark also includes the word, CREATIONS, this will be understood as meaning the act of making or inventing something and will be interpreted as being allusive of the services on offer. I have found the device element to the applicant's mark to be decorative, and therefore the additional word/device does not create a distinctive conceptual difference between the two marks.

Distinctive character of the earlier trade mark

44. 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).

⁴ *Ruiz Picasso v OHIM* [2006] e.c.r.-I-643; [2006] E.T.M.R 29

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)."

45. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the services, to those with high inherent distinctive character, such as invented words which have no allusive qualities. No evidence has been filed in support of the opponent's mark having an enhanced degree of distinctive character, and therefore, I only have the inherent position to consider.

46. The earlier mark comprises of the word, BONZA. As set out above, I consider that the average consumer would interpret the opponent's mark as being a made-up word. I consider that the earlier mark is inherently distinctive to a high degree.

GLOBAL ASSESSMENT – Conclusions on Likelihood of Confusion

47. 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 services down to the responsible undertakings being the same or related. There is no scientific formula to apply in determining whether there is a likelihood of confusion; rather, it is a global assessment where a number of factors need to be borne in mind. The first is the interdependency principle, i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective services and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the opponent's

trade mark, the average consumer for the services and the nature of the purchasing process. In doing so, I must be alive to the fact that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them that he has retained in his mind.

48. I have found as follows:

- The services at issue are identical on the principles outlined in *Meric*;
- The average consumer will predominantly be a business or professional user, although I do not exclude members of the general public. They will select the contested services by primarily visual means, although I do not discount an aural component;
- A reasonably high level of attention will be paid, though not at the very highest level;
- The contested mark is visually similar to the earlier mark to between a medium and high degree;
- The marks are aurally similar to a medium degree;
- I have found the use of BONZA within the marks to be conceptually neutral to a significant proportion of consumers. The applicants mark also includes the word, CREATIONS and a device element, which do not create a distinctive conceptual difference between the two marks.
- The earlier mark to be inherently distinctive to a high degree.

49. I begin by considering a likelihood of direct confusion. The competing marks share the word BONZA; however, the contested mark also includes the word, CREATIONS, making the mark BONZA CREATIONS with a graphic sign to the left-hand side of the mark. In this instance, I find BONZA to be the dominant element of the contested mark, as the word CREATIONS is allusive of the services on offer, and along with the graphic design, will play only a weak role in the overall impression of the mark. I have found the word, BONZA, to be the dominant element of the marks, and this gives rise to a visual, aural and conceptual similarity, even when considering the simple stylisation of

the contested mark. I also bear in mind that I have found the opponent's mark to be inherently distinctive to a high degree. Given this similarity and the fact that the respective services are identical, it is my view that consumers may mistake one mark for another. Taking all the above into account, and bearing in mind the principle of imperfect recollection, and that the marks will not be considered side by side, I consider that there exists a likelihood of direct confusion. In case I am wrong about that, I will move on to consider indirect confusion. In case I am wrong about that, I will move on to consider indirect confusion.

50. In *L.A. Sugar Limited v By Back Beat Inc*, BL O/375/10, Mr Iain Purvis Q.C., as the Appointed Person, explained that:

“16. Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognised that the later mark is different from the earlier mark. It therefore requires a mental process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: ‘The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark’.

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

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

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

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

51. The three categories set out in *L.A. Sugar* are not exhaustive; rather, they were intended to be illustrative of the general approach, as has been confirmed by the Court of Appeal.⁵ I recognise that a finding of indirect confusion should not be made merely because the competing marks share a common element. In this connection, it is not sufficient that a mark merely calls to mind another mark; this is mere association not indirect confusion.⁶

52. When assessing indirect confusion, I find that as a result of the common word, BONZA, consumers will be confused between the two entities as this appears identically in each mark. This is particularly the case as I have found the opponent’s mark to be inherently distinctive to a high degree, and therefore the average consumer is likely to believe that only the opponent would be using a mark which included this word. When considering the differences within the marks, namely the inclusion of the word CREATIONS in the contested mark, which is allusive of the services on offer, and the graphic sign, I find that BONZA will be considered as the distinctive element of the mark. Therefore, I find that BONZA CREATIONS is likely to be interpreted as a sub-brand or indicative of services provided by the same, or a linked undertaking. I am satisfied that such is the similarity between the marks visually, aurally and conceptually, and due to the interdependency principle, there would be a likelihood of confusion. As a result of this, I find a likelihood of indirect confusion.

⁵ *Liverpool Gin Distillery and others v Sazerac Brands, LLC and others* [2021] EWCA Civ 1207

⁶ *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17

Conclusion

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

Costs

54. 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 £1,150 as a contribution towards the cost of the proceedings. The sum is calculated as follows:

Filing a notice of opposition and considering the holder's counterstatement:	£250.00
Considering the applicant's evidence	£450.00 ⁷
Preparing submissions-in-lieu	£350.00
Official fee:	£100.00
Total:	£1,150. 00

55. I therefore order Bonza Creations Ltd to pay Bonza Music Ltd the sum of £1,150.00. The above sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 22nd day of July 2026

LA Bailey

For the Registrar

⁷ The applicant's evidence was minimal and therefore I consider it appropriate to make an award slightly below the scale as set out within the TPN, in order to reflect the same.