O-0796-23

TRADE MARKS ACT 1994

IN THE MATTER OF

TRADE MARK APPLICATION NO 3794242

BY PEOPLE MATTER, PEOPLE FIRST LTD

TO REGISTER

I AM HR

I am HR

AS A SERIES OF TWO TRADE MARKS IN CLASS 35

AND

OPPOSITION THERETO (UNDER NO. 436113)

BY

COURAGEOUS SUCCESS LTD

BACKGROUND

1) On 31 May 2022, People Matter, People First Ltd ('the applicant') applied to register, as a series of two trade marks, the words 'I AM HR' and 'I am HR' in respect of the following services:

> **Class 35**: Human resources management; Human resources consultation; Human resources consultancy; Human resources management and recruitment services; Serving as a human resources department for others; Personnel resources management.

2) The application was published in the Trade Marks Journal on 24 June 2022 and notice of opposition was later filed by Courageous Success Ltd ('the opponent'). The opponent claims that the trade mark application offends under section 5(2)(b) of the Trade Marks Act 1994 ('the Act'). It relies upon the following trade mark registration:

UKTM No: 3085830

Class 35: Advertising; business management; providing advice on developing and/or managing businesses, projects, personnel, teams; identifying personnel training needs; conducting research and/or surveys relating to any or all of the aforesaid; compiling and/or providing information relating to any or all of the aforesaid; organising, arranging and/or conducting workshops relating to any or all of the aforesaid; information and advisory services relating to any or all of the aforesaid.

Class 41: Education and training services; provision of training; arranging and conducting of courses, training, tutoring, seminars, lectures, workshops, open days, organising and conducting demonstrations; entertainment; sporting and cultural activities; and advisory and consultancy services in the above areas.

Filing date: 12 December 2014
Date of entry in the register: 17 April 2015

3) The trade mark relied upon by the opponent is an 'earlier' mark, in accordance with section 6 of the Act. As it had been registered for five years or more at the filing date of the contested application, it is, in principle, subject to the proof of use conditions as per Section 6A of the Act. The opponent made a statement of use in relation to all of the services relied upon.

4) The applicant filed a counterstatement. The applicant does not request that the opponent provide proof of use of its earlier mark[1]. The effect of this is that the opponent is entitled to rely upon all of the services for which it made a 'statement of use' in the notice of opposition without having to provide evidence that it has used its mark in relation to any of those services. I note that the applicant appears to accept that the parties' services are similar in class 35 but, nevertheless, appears to contend that the actual services provided by the parties in the marketplace are, in fact, different[2]. The applicant points out that the opponent has admitted that the stylisation of the respective marks differ and it denies that section 5(2)(b) of the act 'applies'.

5) Subsequent to the filing of the counterstatement, a preliminary indication was issued to the parties under the provision of Rule 19 of The Trade Marks Rules 2008[3]. That indication was that the opposition would succeed in full. The applicant gave notice that it nevertheless wished to proceed to evidence rounds[4]. That preliminary indication, given by a different Hearing Officer, is not binding upon me and will have no bearing upon my decision.

6) The opponent is represented by Potter Clarkson LLP. The applicant is without legal representation. Neither party has filed any evidence of fact. Neither party

[1] As per question 7 of the Form TM8 where the applicant has ticked 'No' in answer to the question: 'Do you want the opponent to provide "proof of use"?'.
[2] As per the applicant's statement that: "While services covered are similar in the class in which they fall, that classification being broad, the specific nature of I AM HR's pursuit differs significantly to those of the opponent at core and non-core level".
[3] As per the official letter of 14 December 2022.
[4] As per Form TM53 filed on 16 January 2023.

requested a hearing. Both parties filed submissions in lieu[5]. I now make this decision after considering all the papers before me.

DECISION

7) Section 5(2)(b) of the Act states:

> "5. - (2) A trade mark shall not be registered if because –
>
> (a)….
>
> (b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected,
>
> there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark."

Case law

8) Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 requires tribunals to apply EU-derived national law in accordance with EU law as it stood at the end of the transition period. The provisions of the Act relied on in these proceedings are derived from an EU Directive. Accordingly, it is appropriate to take account of the case law of EU courts in determining the matter before me.

9) The leading authorities which guide me are from the Court of Justice of the European Union ('CJEU'): *Sabel BV v Puma AG,* Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc,* Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV,* Case C-425/98, *Matratzen Concord GmbH v OHIM*, Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH,* Case C-

[5] Opponent's submissions dated 18 May 2023 and Applicant's submissions dated 17 May 2023.

120/04, *Shaker di L. Laudato & C. Sas v OHIM,* Case C-334/05P and *Bimbo SA v OHIM,* Case C-591/12P.

The principles

(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 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 will wrongly believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

The correct approach

10) The applicant makes a number of comments in the counterstatement and submissions in lieu about the actual services, it claims, are provided by the parties and how they are different. In the light of these comments, it is necessary for me to explain what the correct approach is that I must take when assessing the similarity between the parties' services and the overall likelihood of confusion.

11) As I noted earlier, the opponent is not required to provide 'proof of use' of its earlier mark. The opponent is therefore entitled to rely upon all of the services covered by its registration without having to show that it has actually used its mark in relation to any of those services in the marketplace. Further, I must consider all of the circumstances in which the applicant's mark might be used if it were registered[6]. The effect of this is that I am required to make the assessment of the likelihood of confusion notionally and objectively based on the opponent's services, as registered, and the applicant's services, as applied for, in accordance with the relevant case law. That assessment necessarily requires that I must not take into account the

[6] As per *O2 Holdings Limited, O2 (UK) Limited v Hutchison 3G UK Limited,* Case C- 533/06, [66]

actual way that either party has used their marks in the marketplace or the kinds of services that those marks have been used in relation to thus far. This is because the applicant and/or opponent may decide to change/adapt the way they market their services over time. Furthermore, trade mark registrations are items of property which may be sold by the applicant and/or opponent to third parties in the future and be used in a different way, or upon/in relation to different services, by those third parties than those used by the current proprietors of those marks. In this connection, in *Devinlec Développement Innovation Leclerc SA v OHIM,* Case C-171/06P, the CJEU stated:

> "59. As regards the fact that the particular circumstances in which the goods in question were marketed were not taken into account, the Court of First Instance was fully entitled to hold that, since these may vary in time and depending on the wishes of the proprietors of the opposing marks, it is inappropriate to take those circumstances into account in the prospective analysis of the likelihood of confusion between those marks."

For all of these reasons, the actual kind of services which either party may currently be providing in the marketplace is not relevant to my assessment.

Comparison of services

12) All relevant factors relating to the services should be taken into account when making the comparison. In *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer* the CJEU, Case C-39/97, stated at paragraph 23 of its judgment:

> "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."

13) Guidance on this issue has also come from Jacob J where, in *British Sugar Plc v James Robertson & Sons Limited* [1996] RPC 281, the following factors were highlighted as being relevant:

> (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.

14) In terms of being complementary (one of the factors referred to in *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer*), this relates to close connections or relationships that are important or indispensable for the use of the other. In *Boston Scientific Ltd v OHIM* Case T- 325/06, it was stated:

> "It is true that goods are complementary if there is a close connection between them, in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods lies with the same undertaking.."

In *Sanco SA v OHIM* Case T-249/11, the General Court ('GC') found that goods and services may be regarded as 'complementary' and therefore similar to a degree in

circumstances where the nature and purpose of the respective goods and services was very different, i.e. chicken against transport services for chickens. The purpose of examining whether there is a complementary relationship between goods/services is to assess whether the relevant public are liable to believe that responsibility for the goods/services lies with the same undertaking or with economically connected undertakings. As Mr Daniel Alexander Q.C. noted as the Appointed Person in *Sandra Amelia Mary Elliot v LRC Holdings Limited* (BL-0-255-13):

> "It may well be the case that wine glasses are almost always used with wine – and are, on any normal view, complementary in that sense - but it does not follow that wine and glassware are similar goods for trade mark purposes."

Whilst on the other hand:

> ".....it is neither necessary nor sufficient for a finding of similarity that the goods in question must be used together or that they are sold together."

15) Finally, I note the decision in *Gérard Meric v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM* Case T-133/05) ('*Meric*'), where the GC held:

> "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 the trade mark application (Case T-388/00 Institut für Lernsysteme v OHIM – Educational Services (ELS) [2002] ECR II-4301, paragraph 53) or when the goods designated by the trade mark application are included in a more general category designated by the earlier mark (Case T-104/01 Oberhauser v OHIM – Petit Liberto (Fifties) [2002] ECR II-4359, paragraphs 32 and 33; Case T-110/01 Vedial v OHIM – France Distribution (HUBERT) [2002] ECR II-5275,paragraphs 43 and 44; and Case T-10/03 Koubi v OHIM – Flabesa (CONFORFLEX) [2004] ECR II-719, paragraphs 41 and 42)."

16) The opponent's strongest case obviously lies with its services in class 35. I will therefore only set out those services below. The services covered by the earlier mark in class 41 clearly offer the opponent no stronger prospect of success. Accordingly, the services to be compared are:

Opponent's services	Applicant's services
Class 35: Advertising; business management; providing advice on developing and/or managing businesses, projects, personnel, teams; identifying personnel training needs; conducting research and/or surveys relating to any or all of the aforesaid; compiling and/or providing information relating to any or all of the aforesaid; organising, arranging and/or conducting workshops relating to any or all of the aforesaid; information and advisory services relating to any or all of the aforesaid. (my emphasis)	**Class 35**: Human resources management; Human resources consultation; Human resources consultancy; Human resources management and recruitment services; Serving as a human resources department for others; Personnel resources management.

17) As I noted earlier, the applicant appears to accept that the parties' respective services in class 35 are similar. However, if I am wrong to construe the applicant's comment as such an admission, I, in any event, find that the respective services are indeed notionally and objectively highly similar, if not identical. This is because the opponent's 'providing advice on developing and/or managing…personnel' will, in my view, obviously form part-and-parcel of all of the applicant's services. All of the applicant's services will involve the provision of advice of the same nature of that which is covered by the opponent's services. All of the applicant's services are, in my view, identical to the opponent's services in accordance with *Meric.* Even if I am

wrong about that, there would nevertheless be a high degree of similarity between all of applicant's services and the aforementioned services of the opponent given the obvious likely overlap in user, nature, purpose, trade channels and that there is a complementary relationship in play between them.

Average consumer and the purchasing process

18) It is necessary to determine who the average consumer is for the respective services and the manner in which they are likely to be selected. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J. described the average consumer in these terms:

> "60. The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The words "average" denotes that the person is typical. The term "average" does not denote some form of numerical mean, mode or median."

The average consumer of the relevant services is a business/professional. The cost of the services may vary but even those at the lower end of the cost scale are unlikely to be inexpensive. I would expect the average consumer to take some care when making the purchase to ensure that the services meet their needs as regards the management, development and recruitment of personnel. As such, I find that, generally speaking, a medium-high degree of attention is likely to be paid during the purchase. The relevant services are likely to be sought out visually, whether that be online or through signage on physical premises or marketing material. However, I do not discount that there may also be an aural aspect to the purchase.

Comparison of marks

19) 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."

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

20) The application is for a series of 2 word-only marks, absent any stylisation or embellishments. They differ only as regards the case used. A registration of a word-only mark protects the words themselves. Such registrations may notionally be used in upper, lower and title case and any other standard case. Accordingly, there is no material difference between the marks. I will use the 'I AM HR' mark for the purposes of the comparison. Accordingly, the marks to be compared are:

v I AM HR

I will first consider the overall impression of each mark. The applicant's mark consists of the plain words 'I AM HR'. The overall impression lies in the combination of those words. Turning to the earlier mark, this consists of the stylised letter, 'i', followed by the word 'AM' in emboldened block capitals[7]. I find that it is the combination of the letter 'i' and the word 'AM' which carries the greatest weight in, and therefore dominates, the overall impression of the mark as a whole. The particular stylisation of the letter 'i' (the swirl-like effects over the top of the letter and the shape of the letter itself) plays an important, but lesser role, in the overall impression of the mark.

21) Visually, there is coincidence between the respective 'I AM' and 'iAM' aspects of the marks given the shared use of the same three letters. The visual differences arise due to i) the presence of 'HR' in the applicant's mark which is absent from the earlier mark, ii) the stylisation of the letter 'i' (as described in the preceding paragraph) in the applicant's mark which is absent from the earlier mark and iii) the lack of spacing between the letter 'i' and word 'AM' in the earlier mark which is not present in the applicant's mark. Overall, I find that the degree of visual similarity between the marks sits at a level which is between low and medium (i.e. greater than low but less then medium).

22) Aurally, the contested mark will be pronounced as 'EYE-AM-AITCH-ARE'. The earlier mark is likely to be pronounced as 'EYE-AM'. The earlier mark therefore consists of two syllables which are identical to the first two syllables of the applicant's mark. The third and fourth syllables of the applicant's mark are entirely absent from the earlier mark. Overall, I find a medium degree of aural similarity between the marks.

23) Conceptually, 'I AM HR', in the context of the relevant services will be perceived as meaning 'I am Human Resources' (a person/entity that is human resources). The earlier mark will be perceived simply as 'I am' (a person/entity that is something undefined). Both marks therefore bring to mind a person/thing that is 'something'

[7] In this connection, I note, that the applicant does not appear to dispute that the earlier mark consists of the letters 'iAM' or that it will be perceived as such by the average consumer. See the counterstatement where the applicant merely draws attention to the different stylisation of the marks and the applicant's submissions in lieu, at paragraph 4, where it refers to the earlier mark as 'iAM'.

albeit that that something is defined as ‘Human Resources’ in the contested mark but is undefined in the earlier mark. However, I bear in mind that the concept of ‘Human Resources’ is entirely descriptive of the relevant services and therefore does little, in my view, to distinguish the marks conceptually. Overall, the marks are conceptually similar to a high degree.

Distinctive character of the earlier mark

24) The distinctive character of the earlier mark must be considered. The more distinctive it is, either by inherent nature or by use, the greater the likelihood of confusion (*Sabel BV v Puma AG*). In *Lloyd Schuhfabrik Meyer & Co. GmbH* v *Klijsen Handel BV,* Case C-342/97 the CJEU stated that:

> “22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *WindsurfingChiemsee* v *Huber and Attenberger* [1999] ECR I-0000, paragraph 49).
>
> 23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51).”

As I have no evidence before me to show that the earlier mark's distinctiveness may have been enhanced through use, I have only its inherent degree of distinctiveness to consider. The applicant submits that 'I AM' is a 'commonly used prefix' and that 'A simple google search demonstrates the wide use of I am, nationally and globally…'. No evidence has been furnished in support of this statement. It has no bearing upon my assessment of the inherent distinctiveness of the opponent's mark.

25) The opponent's mark is neither descriptive, nor obviously allusive, in relation to any of the services relied upon. I find that the mark as a whole, factoring in the particular stylisation, has a normal degree of inherent distinctiveness. However, as it is the distinctiveness of the common element that is of the greatest importance[8], I also find that 'iAM' itself (absent any stylisation) has a normal degree of distinctiveness.

Likelihood of confusion

26) I must now feed all of my earlier findings into the global assessment of the likelihood of confusion, keeping in mind the following factors: i) the interdependency principle, whereby a lesser degree of similarity between the services may be offset by a greater similarity between the marks, and vice versa (*Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*); ii) the principle that the more distinctive the earlier mark is, the greater the likelihood of confusion (*Sabel BV v Puma AG*), and; iii) the factor of imperfect recollection i.e. that consumers rarely have the opportunity to compare marks side by side but must rather rely on the imperfect picture that they have kept in their mind (*Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V).*

27) The respective services are highly similar, if not identical. The marks are visually similar to a level which is between low and medium, aurally similar to a medium degree and conceptually similar to a high degree. The opponent's mark also has a normal degree of inherent distinctiveness, both as a whole and as regards the 'iAM' letters themselves. Weighing all these factors, I find that the visual differences

[8] In *Kurt Geiger v A-List Corporate Limited,* BL O/075/13, Mr Iain Purvis Q.C. as the Appointed Person pointed out that the level of 'distinctive character' is only likely to increase the likelihood of confusion to the extent that it resides in the element(s) of the marks that are identical or similar.

between the marks, in particular, weigh against the average consumer mistaking one mark for the other when paying a medium-high degree of attention, even allowing for imperfect recollection. There is no likelihood of direct confusion.

28) I will now consider the likelihood of indirect confusion. In this connection, I bear in mind that in *L.A. Sugar Limited v By Back Beat Inc*, Case BL O/375/10 (*L.A. Sugar),* Mr Iain Purvis Q.C. (as he then was), sitting as the Appointed Person, explained that:

> "16. Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different from the earlier mark. It therefore requires a mental process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: 'The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark'.
>
> 17. Instances where one may expect the average consumer to reach such a conclusion tend to fall into one or more of three categories:
>
> (a) where the common element is so strikingly distinctive (either inherently or through use) that the average consumer would assume that no-one else but the brand owner would be using it in a trade mark at all. This may apply even where the other elements of the later mark are quite distinctive in their own right ('26 RED TESCO' would no doubt be such a case).
> (b) where the later mark simply adds a non-distinctive element to the earlier mark, of the kind which one would expect to find in a sub-brand or brand extension (terms such as 'LITE', 'EXPRESS', 'WORLDWIDE', 'MINI' etc.).

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

29) I also keep in mind that 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. Furthermore, it is not sufficient that a mark merely calls to mind another mark: *Duebros Limited v Heirler Cenovis GmbH,* BL O/547/17. This is mere association not indirect confusion.

30) I bear in mind that the categories listed above in *L.A. Sugar* are, of course, not an exhaustive list of all the ways in which indirect confusion can occur; they are merely examples of the way in which it tends to occur. In the instant case, I consider that the average consumer is likely to believe that the respective services come from the same or linked undertaking(s), bearing in mind, in particular, the high degree of conceptual similarity between the marks and the highly similar, if not identical, services at issue. The later mark is likely to be perceived as being an entirely logical and consistent brand extension, or variant, of the earlier mark. I add here that I would also have reached the same conclusion even if I had found the distinctiveness of the earlier mark (and the 'iAM' element itself, absent its stylisation) to be low, as appears to have been contended by the applicant, and even if I had found the conceptual similarity to be medium, as opposed to high. **The opposition under Section 5(2)(b) of the Act succeeds in full.**

COSTS

31) As the opponent has been successful, it is entitled to an award of costs. Awards of costs are governed by Tribunal Practice Notice ("TPN") 2 of 2016. Applying the guidance in that TPN, I award costs to the opponent on the following basis:

TM7 (Official filing fee) = £100

Filing the notice of opposition = £200

Filing written submissions = £300

Total: £600

32) I order People Matter, People First Ltd to pay Courageous Success Ltd the sum of **£600**. This sum is to be paid within twenty-one days of the expiry of the appeal period or, if an appeal is filed, within twenty-one days of the final determination of this case if any such appeal against this decision is unsuccessful.

Dated this 21st day of August 2023

Beverley Hedley
For the Registrar,
the Comptroller-General