

O/0824/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00004123371

BY KYK TRADING INC.

TO REGISTER:

KIYOKO

AS A TRADE MARK IN CLASS 35

AND

IN THE MATTER OF THE OPPOSITION THERETO

UNDER NO. 452616

BY INTERNATIONAL HAIR COSMETICS LIMITED

BACKGROUND AND PLEADINGS

1. On 12 November 2024, KYK Trading Inc. (“the applicant”) applied to register the trade mark shown on the cover page of this decision, in the UK. The application was accepted and published in the Trade Marks Journal on 22 November 2024 in respect of the following services:

Class 35: *Online retail store services in relation to cosmetics and beauty products; none of the aforesaid services specifically adapted for domesticated animals and domestic pets.*

2. On 19 February 2025, the application was opposed in its entirety by International Hair Cosmetics Limited (“the opponent”) based upon Sections 5(2)(b), 5(3) and 5(4)(a) of the Trade Marks Act 1994 (“the Act”) with the opponent relying upon, and claiming reputation for, the following marks and goods:

UK00906386254¹ (“the word-only mark”)

KITOKO

Filing date: 23 October 2007

Registration date: 20 August 2008

Class 3: *Non-medicated toilet preparations; preparations for the care and treatment of the hair and/or scalp; hair cosmetics; hair colourants; shampoos; conditioners; styling gels, sprays and mousses; essential oils.*

UK00002553115 (“the figurative mark”)

¹ This is a comparable mark based on earlier EUTM. On 1 January 2021, in accordance with Article 54 of the Withdrawal Agreement between the UK and the European Union, the UK IPO created comparable UK trade marks for all right holders with existing EUTM and IRs designating the EU. This comparable mark enjoys the same filing and registration date as its European counterpart.



Filing date: 15 July 2010

Registration date: 22 October 2010

Class 3: *Bleaching preparations and other substances; cleaning polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; hair care preparations; shampoos, conditioners; hair styling products, hair spray, gel, mousse and wax; hair oils; care and treatment of the hair and scalp; hair cosmetics; hair colourants.*

3. By virtue of their earlier filing dates, the trade marks relied upon by the opponent are earlier marks in accordance with Section 6 of the Act. Although both earlier marks had been registered for more than five years at the filing date of the contested mark, and would be caught by the use conditions under Section 6A of the Act, the applicant answered 'No' to the question "*Do you want the opponent to provide proof of use?*". Accordingly, in this opposition, the opponent can rely upon all of the goods it has identified without demonstrating genuine use.

4. Under Section 5(2)(b), the opponent claims that there is a likelihood of confusion because the marks are highly similar and the goods and services are highly similar.

5. Under Section 5(3) the opponent claims that it has developed a reputation in the earlier marks through its extensive use of them in the UK. The opponent also submits that the marks are highly similar and that use of the applicant's mark would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the opponent's marks.

6. Lastly, under Section 5(4)(a) the opponent relies upon two earlier signs corresponding to the two earlier marks. The opponent claims to have used the sign

'KITOKO' throughout the UK since 2007 in relation to *non-medicated toilet preparations; preparations for the care and treatment of the hair and/or scalp; hair cosmetics; hair colourants; shampoos; conditioners; styling gels, sprays and mousses; essential oils*. The opponent also states that it has used the following sign throughout the UK since 2010 in relation to *bleaching preparations and other substances; cleaning polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; hair care preparations; shampoos, conditioners; hair styling products, hair spray, gel, mousse and wax; hair oils; care and treatment of the hair and scalp; hair cosmetics; hair colourants*:



7. The opponent claims that use of the applicant's mark would be contrary to the law of passing off.

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

9. The applicant is represented by Trademarkia P.C., whereas the opponent is represented by Abion UK Limited.

10. Only the opponent filed evidence in these proceedings. Although the applicant did not file any evidence, it filed written submissions dated 20 August 2025.

11. Neither party requested a hearing, but only the opponent filed written submissions in lieu of a hearing. I make this decision having taken full account of all the papers, referring to them as necessary.

Relevance of EU Law

12. 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

13. The opponent's evidence came in the form of a witness statement from Jandan Aliss dated 19 June 2025. Ms Aliss is a trade mark attorney and partner at Abion UK Limited, the opponent's legal representative. Her witness statement is accompanied by one exhibit labelled JA1.

14. I do not intend to summarise the evidence in full here. However, I confirm that I have taken all filed documents into account and will summarise them to the extent that I deem necessary below.

My approach

15. Although the opponent relies upon two earlier marks, the word-only mark provides the opponent's best-case scenario. This is because both earlier marks are based on the identical word 'KITOKO' and are registered for similar goods. Neither mark is subject to proof of use, and the only material difference between them consists in the additional figurative elements which are incorporated in the figurative mark – this only takes the figurative mark further away from the contested mark. Accordingly, for the purpose of the Section 5(2)(b) ground, I will carry out the assessment based on the word-only mark, and I will return to the other mark only if it becomes necessary.

DECISION

Section 5(2)(b)

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

“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.”

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

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

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

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

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other

components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

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

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

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

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

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

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

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

Comparison of goods

18. When making the comparison, all relevant factors relating to the goods and services in the specifications should be taken into account. In the judgment of the

Court of Justice of the European Union (“CJEU”) in *Canon*, Case C-39/97, the court stated at paragraph 23 of its judgment that:

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

19. The relevant factors identified by Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, for assessing similarity were:

- (a) The respective uses of the respective goods or services;
- (b) The respective users of the respective goods or services;
- (c) The physical nature of the goods or acts of service;
- (d) The respective trade channels through which the goods or services reach the market;
- (e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be, found in supermarkets and in particular whether they are, or are likely to be, found on the same or different shelves;
- (f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.

20. In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity

between goods. In *Boston Scientific Ltd v OHIM*, Case T-325/06, the General Court (“GC”) stated that “complementary” means:

“[...] 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.”

21. In *Sanco SA v OHIM*, Case T-249/11, the GC indicated 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 are very different. The purpose of examining whether there is a complementary relationship between goods and services is to assess whether the relevant public are liable to believe that the responsibility for the goods and services lies with the same undertaking or with economically connected undertakings. As Mr Daniel Alexander QC noted as the Appointed Person in *Sandra Amelia Mary Elliot v LRC Holdings Limited*, BL O/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.”

22. 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.”

23. In *Gérard Meric v OHIM*, Case T- 133/05, the GC stated that:

“29. In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by trade mark application (Case T-388/00 *Institut fur Lernsysteme v OHIM- Educational Services (ELS)* [2002] ECR II-4301, paragraph 53) or

where the goods designated by the trade mark application are included in a more general category designated by the earlier mark.”

24. The competing goods and services are as follows:

The applicant's services	The opponent's goods
Class 35: <i>Online retail store services in relation to cosmetics and beauty products; none of the aforesaid services specifically adapted for domesticated animals and domestic pets.</i>	Class 3: <i>Non-medicated toilet preparations; preparations for the care and treatment of the hair and/or scalp; hair cosmetics; hair colourants; shampoos; conditioners; styling gels, sprays and mousses; essential oils.</i>

25. The applicant seeks registration for retail services in relation to cosmetics and beauty products for human use. The opponent's earlier mark is registered for, among others, *hair cosmetics*, which fall within the definition of cosmetic and beauty products. Further, the earlier term *non-medicated toilet preparations* includes beauty preparations and goods for personal hygiene to enhance a person's appearance; these goods would be identical to cosmetics and beauty products, or if I am wrong, would be highly similar, overlapping in nature, purpose, end user, channels of trade and provider/producer, as well as being complementary.²

26. In *Oakley, Inc v OHIM*, Case T-116/06, at paragraphs 46-57, the GC held that although retail services are different in nature, purpose and method of use to goods, retail services for particular goods may be complementary to those goods, and distributed through the same trade channels, and therefore similar to a degree. That is the case here. The applied-for services are retail services for the sale of cosmetic goods which are identical to the opponent's cosmetic goods. Overall, I find that the applicant's retail services are similar to a medium degree to the opponent's cosmetic goods.

² See decision in BL-O/0286/25

Average consumer

27. 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.

28. In *Iconix Luxembourg Holdings* (cited above), 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.

29. The average consumer of the competing goods and services in classes 3 and 35 is a member of the general public.

30. Although the goods will vary in price, they are, for the most part, likely to be relatively inexpensive and purchased on a regular basis. They will typically be selected visually in retail outlets, catalogues and online. While I do not discount the possibility of oral selection by requests to staff, consumers are still likely to have viewed the goods before purchase. The selection process will therefore be predominantly visual.

31. The purchasing process for the goods is likely to be more casual than careful and will not involve an overly considered thought process. Overall, the average consumer will not typically demonstrate more than a medium level of attention when selecting the goods.

32. The services are likewise to be selected primarily by visual means, although I do not discount aural considerations through word-of-mouth recommendations. Given the nature of the goods to which the services relate, the average consumer is likely to pay no more than a medium degree of attention when selecting the retail services.

Comparison of marks

33. 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.”

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

The applied-for mark	The earlier mark
KIYOKO	KITOKO

35. Both marks are word-only marks consisting of a single word with no other elements contributing to the overall impression.

Visual similarity

36. In its submissions in lieu, the opponent says that the words ‘KITOKO’ in the earlier mark and ‘KIYOKO’ in the application differ by only a single letter, namely the consonants ‘T’ and ‘Y’, respectively, which are situated centrally as the third letter within the marks. The opponent also points out that both marks coincide in the sequence of the letters ‘KI’ and ‘OKO’ and share the same length and an identical combination of vowels and consonants. Further, the opponent states that the letters ‘T’ and ‘Y’ are visually similar due to comparable letterform structure and stroke styles. Conversely, the applicant states that the marks are “*visually, aurally and conceptually totally dissimilar.*”

37. I agree with the observations made by the opponent. Both marks consist of six letters and share the first two letters ‘KI’ and the last three letters ‘OKO’, the only difference between the marks being the third letter, which is a ‘Y’ in the applied-for mark, and a ‘T’ in the earlier mark. Bearing in mind that (a) it is only one change of

consonant in the middle of the marks, (b) the marks are not short, and (c) consumers tend to focus on the beginnings of marks (which means that differences in the middle of marks are less noticeable), I consider that such change does not create a striking impression. Overall, I consider that the marks are visually similar to a high degree.

Aural similarity

38. Aurally, 'KITOKO' and 'KIYOKO' will be pronounced as 'KI-TO-KO' and 'KI-YO-KO' giving rise to very similar sounds and a high degree of aural similarity.

Conceptual similarity

39. Conceptually, the opponent says that "*KITOKO is a given name which translates as 'beautiful' or 'beauty' in Lingala (a Bantu language spoken in the northwest of the Democratic Republic of the Congo), while KIYOKO is a given name which translates as 'pure child' in Japanese*" however, the opponent also argues that neither 'KITOKO' nor 'KIYOKO' has a distinct meaning in the English language and so conceptually the position is neutral. Conversely, the applicant states that 'KIYOKO' is a Japanese female name whilst 'KITOKO' has no meaning, so the marks are conceptually different.

40. Whilst 'KITOKO' and 'KIYOKO' might have the meaning of a name in the Democratic Republic of the Congo and Japan, they are not common names used in the UK, and thus, it is unlikely that the average consumer will perceive them as names. Accordingly, I find that neither mark will convey any meaning and that the conceptual position is neutral.

Distinctive character of the earlier mark

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

"22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an

overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-0000, paragraph 49).

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51)."

42. Registered trade marks possess various degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods or services, to those with high inherent distinctive character, such as invented words, which have no allusive qualities. The distinctiveness of a mark can be enhanced by virtue of the use made of it.

43. Starting from the inherent position, I have explained that the earlier mark 'KITOKO' will convey no meaning. As such, it will be perceived as an invented word. Whilst invented words tend to benefit from a high degree of distinctiveness, in the present case the opponent claimed that both marks have an average degree of distinctiveness – hence I will proceed on this basis.

44. Whilst the opponent has filed evidence, its only aim is to demonstrate that the goods and services at issue are similar. As commented by Ms Aliss in her witness statement, she merely introduces exhibit JA1 which consists of "*extracts from a sample of hair, beauty and skincare companies' websites which demonstrate that*

companies commonly sell goods branded under the same trade mark as the retail/wholesale name of the company.” I have not mentioned this evidence when dealing with the comparison of goods and services, as it did not add anything to the opponent’s case. This is because it merely shows companies selling their own cosmetic goods on their own websites, however, that is not the same as providing retail services to the public.

45. Without engaging in a discussion about the difference between a company selling their own goods through their own website, and providing retail services in class 35,³ it suffices to say here that since the opponent has failed to provide any evidence of reputation and goodwill in respect of the earlier mark, its claims under Section 5(3) and 5(4)(a) fail at the first hurdle. It also follows that, as the opponent failed to provide any evidence of use in terms of enhanced distinctiveness, I have only the inherent position to consider.

Likelihood of confusion

46. 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, including that a lesser degree of similarity between the respective marks may be offset by a greater degree of similarity between the respective goods and services and vice versa. I must keep in mind the distinctive character of the earlier mark, the average consumer for the goods and services and the nature of the purchasing process. I must be alive to the fact that the average consumer rarely has the opportunity to make direct comparisons between marks and must instead rely upon the imperfect picture of them that they have retained in their mind.

47. Confusion can be direct or indirect. 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

³ Tony Van Gulck v Wasabi Frog Ltd, Case BL O/391/14,

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).”

48. In *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 1207, Arnold LJ approved Mr Purvis’s formulation but added:

“13. As James Mellor QC sitting as the Appointed Person pointed out in *Cheeky Italian Ltd v Sutaria* (O/219/16) at [16] ‘a finding of a likelihood of indirect confusion is not a consolation prize for those who fail to establish a likelihood of direct confusion’. Mr Mellor went on to say that, if there is no likelihood of direct confusion, ‘one needs a reasonably special set of circumstances for a finding of a likelihood of indirect confusion’. I would prefer to say that there must be a proper basis for concluding that there is a likelihood of indirect confusion given that there is no likelihood of direct confusion.”

49. 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.

50. Earlier in this decision I found that:

- The marks are visually and aurally similar to a high degree, and conceptually neutral.
- The parties’ goods and services are similar to a medium degree.
- The average consumer is a member of the general public who will select the goods mainly visually, with a medium degree of attention.
- The earlier mark is inherently distinctive to a medium degree.

51. Bearing in mind the interdependency principle, and in particular, the high degree of visual and aural similarity between the marks, the absence of any conceptual hook which can assist the recollection of the marks, the medium degree of similarity between the goods and services, and the medium degree of distinctive character of the earlier mark, I consider that the competing marks would easily become tangled up with one another in the perceptions and recollections of consumers exposed to concurrent use of them for the cosmetic goods and corresponding retail services at issue. The different consonants ‘T’ and ‘Y’ in the middle of the marks will easily go unnoticed and be lost due to imperfect recollection.

52. There is a likelihood of direct confusion.

Section 5(3) and 5(4)(a)

53. I can deal with these grounds very briefly. I have already commented on the opponent's evidence and said that since the opponent has failed to file any evidence in respect of its claims for reputation and goodwill, its opposition based on Sections 5(3) and 5(4)(a) fail at the first hurdle. Significantly, whilst the opponent did not withdraw its claims under Sections 5(3) and 5(4)(a), it did not address them in its written submissions.

OUTCOME

54. The opposition succeeds under Section 5(2)(b) and the application will be refused registration.

COSTS

55. The opponent has been successful and is, therefore, entitled to a contribution towards its costs based upon the scale published in Tribunal Practice Notice 1/2023. In the circumstances, I award the sum of £850,⁴ calculated as follows:

Preparing opposition and considering the counterstatement:	£350
Submissions in lieu:	£350
Official fees:	£100
Total:	£850

⁴ I have not awarded anything in relation to the evidence filed by the opponent which was not helpful. Further, since the Sections 5(3) and 5(4)(a) claims have not been supported by any evidence I have only awarded £100 for the Section 5(2)(b) ground.

56. I therefore order KYK Trading Inc. to pay International Hair Cosmetics Limited the sum of £850. This sum is to be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings.

Dated this 11th day of September 2026

TERESA PINTO

For the Registrar