

O/0902/26

TRADE MARKS ACT 1994

IN THE MATTER OF UK TRADE MARK APPLICATION NUMBER 4107610

BY

HOUSE OF HALO AND COMPANY LIMITED

TO REGISTER THE FOLLOWING TRADE MARK:

**HOUSE OF HALO
& CO**

IN CLASSES 35, 41 AND 44

AND

IN THE OPPOSITION THERETO

UNDER NUMBER 453262

BY THE STOCKROOM (KENT) LIMITED

BACKGROUND & PLEADINGS

1. On 2 October 2024, House of Halo and Company Limited (“the applicant”) applied to register the trade mark shown on the cover page of this decision in the UK (“the contested mark”). The contested mark was published for opposition purposes in the Trade Marks Journal on 14 February 2025 in respect of the following services:

Class 35: Retail services in relation to hair products.

Class 41: Hairdressing instruction; Demonstration of hairdressing products for training purposes; Educational seminars relating to hairdressing techniques.

Class 44: Hairdressing salon services; Hairdressing services; Hair salon services for women; Hair salon services for children; Hair salon services for men; Hair colouring services; Hair straightening services; Hair dyeing services; Hair cutting services; Hair curling services; Hair tinting services; Hair styling; Rental of hair styling apparatus; Hair coloring services; Shampooing of the hair; Hair treatment services; Hair extension services; Hair highlighting services.

2. On 26 March 2025, the contested mark was opposed by The Stockroom (Kent) Limited (“the opponent”). The opposition is brought under Section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). The opposition was initially also brought under Section 5(3) of the Act. However, the opponent chose not to file evidence in support of this ground and, accordingly, the Tribunal issued a preliminary view on 1 December 2025 that this ground should be withdrawn. As no response was received to this preliminary view, the withdrawal of the Section 5(3) ground was confirmed by way of official letter dated 22 December 2025.
3. The opponent relies upon the following marks (together “the earlier marks”):
 - (i) Trade mark number UK00003495697 (“the 697 mark”):
Filing date: 1 June 2020
Registration date: 2 October 2020

Relying on goods and services listed in Annex 1 of this decision.

Representation: Halo

(ii) Trade mark number UK00003657595 (“the 595 mark”):

Filing date: 18 June 2021

Registration date: 1 April 2022

Relying on all goods and services listed in Annex 2 of this decision.

Representation: Halo

4. An earlier trade mark is defined in section 6 of the Act, the relevant parts of which state:

“(6)(1) In this Act an “earlier trade mark” means –

(a) a registered trade mark or international trade mark (UK) which has a date of application for registration earlier than that of the trade mark in question, taking account (where appropriate) of the priorities claimed in respect of the trade marks.

5. The marks identified in paragraph 3 qualify as earlier trade marks under the above provisions. It is noted that the earlier marks had not been protected for more than five years at the date of the application for the contested mark and so, in accordance with section 6A of the Act, the marks are not subject to proof of use. Consequently, the opponent may rely on all of the goods and services listed in annexes 1 and 2 of this decision for the purpose of this opposition.
6. The opponent submits that the marks in issue are “highly similar” and that the goods and services are identical or similar. Consequently, the opponent submits that “there is a high likelihood of confusion, including a likelihood of association between the respective marks.”
7. The applicant filed a counterstatement denying that the marks in issue are highly similar. Whilst the applicant admits that there is similarity between some of the goods and services in issue, it denies that there exists a likelihood of confusion

between the marks. The applicant therefore requests that the opposition be rejected and that an award of costs should be made in its favour.

8. The opponent is represented by J P Mitchell Solicitors, and the applicant is represented by Albright IP Limited. In this case, no hearing was requested, but both parties filed written submissions in lieu of the same. Both parties also filed witness evidence. Specifically, the opponent filed two witness statements signed by James Mitchell in his capacity as legal representative for the opponent. The purpose of the first witness statement signed by James Mitchell is to seek to evidence that the words “House of” are non-distinctive as a result of their “widespread use” within a trademark. The applicant also filed a witness statement signed by James Matthew Beeton in his capacity as legal representative for the applicant. The purpose of this witness statement is to seek to evidence that the word “HALO” is widely used and therefore non-distinctive. The opponent’s second witness statement by James Mitchell sought to challenge the evidence filed by Mr Beeton. Accordingly, I will discuss all of the evidence filed by the parties when undertaking my comparison of the marks in issue and my assessment of the distinctive character of the earlier marks.
9. This decision is taken following a careful consideration of the papers that have been filed by the parties, which will not be summarised but will be referred to as and where appropriate during this decision.
10. 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.

DECISION

Section 5(2)(b)

11. This opposition is based upon section 5(2)(b) of the Act which stipulates the following:

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

(b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark”.

12. Section 5A of the Act stipulates that 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.”

13. 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 and Services

14. The competing goods and services are outlined in paragraph 3 and annexes 1 and 2 of this decision.
15. In respect of the earlier 697 mark, the opponent submits that the applicant's class 35 services are identical or highly similar to its class 35 services, and that its class 3 goods are similar to the applicant's class 35 services.
16. Further, in respect of the earlier 595 mark, the opponent submits that the applicant's class 35 services are similar to its class 21 and class 26 goods, that the applicant's class 41 services are highly similar or similar to its class 44 services, and that they are similar to its class 21 and class 26 goods. The opponent also submits that the applicant's class 44 services are identical or highly similar to its class 44 services, and similar to its class 21 and 26 goods.
17. It is noted, therefore, that the opponent has identified a number of goods and services within its earlier marks' specifications that it considers to be similar (to varying degrees) or identical to the applicant's services. However, in the interest of brevity and for the purpose of this decision I will only assess what I consider to be the opponent's best case (i.e., what good or service I consider to be the opponent's closest comparator to the services in the applicant's contested mark's specification).
18. In respect of the earlier 697 mark, the applicant denies that there is any similarity between its class 41 and 44 services and the opponent's goods and services. However, the applicant does admit that there is similarity between the compared marks' class 35 services, albeit it denies that there is identity between the class 35 services, and it also does not identify the level of similarity that is admitted. Despite this admission, given that the extent of similarity between these services (or whether they are identical) remains in issue, I will proceed to undertake a comparison of these services in the usual manner.

19. In respect of the 595 mark, the applicant denies that there is any similarity between the applicant's class 35 and 41 services and the opponent's goods and services. The applicant also denies that there is identity between the parties' respective class 44 services. However, it admits that these services are similar. Accordingly, despite this admission, for the same reasons outlined in the paragraph above, I will proceed to undertake a comparison of these services in the usual manner.
20. As a preliminary point, it should be noted that section 60A of the Act provides that goods and services are not to be regarded as being similar to each other on the ground that they appear in the same class under the Nice Classification¹, or dissimilar on the ground that they appear in different classes under the Nice Classification.
21. In *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc.*,² the Court of Justice of the European Union ("CJEU") stated (at paragraph 23) that, when making the comparison, "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".
22. In *Kurt Hesse v OHIM*,³ 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 Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*,⁴ the General Court 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

¹ "Nice Classification" means the system of classification under the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957.

² Case C-39/97

³ Case C-50/15 P

⁴ Case T-325/06

may think that the responsibility for those goods lies with the same undertaking.”

23. The relevant factors identified by Jacob J. (as he then was) in the *Treat* case⁵, for assessing similarity were:

- a. The uses of the respective goods and services;
- b. The users of the respective goods and services;
- c. The physical nature of the goods and services;
- d. The respective trade channels through which the goods and 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 and 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 in the same or different sectors.

24. In *Gérard Meric v Office for Harmonisation in the Internal Market*,⁶ the General Court (“GC”) confirmed that even if goods are not worded identically, they can still be considered identical if one term falls within the scope of another (or vice versa):

“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,

⁵ [1996] R.P.C. 281

⁶ Case T- 133/05

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.”

25. As per the case of *Separode*,⁷ I also bear in mind that it is permissible to group the goods and services together, for the purpose of comparison, where they are sufficiently comparable to be assessable in essentially the same way for the same reasons.

Class 35

Retail services in relation to hair products.

26. As discussed above, the opponent submits that all of the applicant’s above referenced services are identical to the opponent’s class 35 “online retail store services relating to cosmetic and beauty products [...]”. In my view, the average consumer would construe the term “cosmetics and beauty products” as being products used to beautify/enhance a user’s appearance. I also consider that many hair products are used for this purpose. Therefore, to the extent that hair products are cosmetic or beauty products, the applicant’s retail services in relation to hair products overlap with the opponent’s online retail store services relating to cosmetic and beauty products. As the applicant’s term is not limited by retail channel, it would include online retail services. I therefore find the services identical to that extent under the principle established in *Meric*.
27. However, if I am wrong in that determination, I consider these compared services to be similar to a high degree. This is because I consider there to be an overlap in the nature and purpose of the services given that they are all retail services involving the sale of personal care goods and grooming products. There is also an overlap in user (being members of the general public), method of use and trade channels as they would all be provided by beauty retailers.

⁷ BL O/399/10, Mr Geoffrey Hobbs QC, sitting as the Appointed Person

Class 41

Hairdressing instruction; Demonstration of hairdressing products for training purposes; Educational seminars relating to hairdressing techniques.

28. The opponent submits that the applicant's above referenced services are all similar to its class 21, 26 and 44 goods and services.⁸ However, I consider the closest comparator to be the opponent's terms "hair rollers", "hair fastening articles" and "false hair" in class 26.
29. The nature and method of use of these compared goods and services differs, as does their purpose, with the purpose of the applicant's above referenced services being to educate and train individuals in hairdressing, and the purpose of the opponent's compared goods being to assist with hairstyling. I do not consider there to be an overlap in trade channels because the applicant's services would be provided by hairdressing academies or colleges, and the opponent's compared goods would be purchased from hair and beauty retailers. Whilst I do accept that some manufacturers/suppliers of the opponent's goods may provide training or tuition to salons as part of their marketing/sale of those products, those services would not be provided by those same manufacturers/suppliers as a standalone service.
30. I can see no basis for finding these compared goods and services to be competitive, nor do I consider them to be complementary. That is because, whilst the opponent's goods may be used in the provision of the applicant's above referenced services, I do not consider that consumers would believe that the compared goods and services derive from the same undertaking.
31. Having said that, I do consider there to be a generic overlap in user, that being members of the general public. Whilst this generic overlap in user is noted, I do not consider this to be a sufficient basis for reaching a finding of similarity, and I am conscious of the judgment of Iain Purvis KC in *Unicorn Studio Inc v Veronese* in which he stipulated that "any finding of similarity in the end requires the

⁸ Specifically, the opponent submits that the applicant's class 41 services are highly similar to the opponent's class 44 services.

exercise of common sense and requires the hearing officer to stand back and consider the overall question” rather than by engaging “in a box-ticking exercise, asking how many of the factors identified in *TREAT* or in *Canon* could be said to have been satisfied”.⁹ Consequently, I consider the opponent’s terms “hair rollers”, “hair fastening articles” and “false hair” to be dissimilar to the applicant’s above referenced services. Further, given my finding that this is the opponent’s closest comparator to the applicant’s above referenced services, I find all of the opponent’s goods and services to be dissimilar to the applicant’s above referenced services.

Class 44

Hairdressing salon services; Hairdressing services; Hair salon services for women; Hair salon services for children; Hair salon services for men; Hair colouring services; Hair straightening services; Hair dyeing services; Hair cutting services; Hair curling services; Hair tinting services; Hair styling; Hair coloring services; Shampooing of the hair; Hair treatment services; Hair extension services; Hair highlighting services.

32. I consider all of the applicant’s above referenced services to be types of haircare services, and I note that this wider term is contained in the earlier 595 marks’ specification. Accordingly, I find the applicant’s above referenced services to be identical to the opponent’s class 44 “haircare services” in line with the principle established in *Meric*.

Rental of hair styling apparatus

33. The opponent submits that the applicant’s above referenced service is identical to the opponent’s class 44 beauty care/beauty salon, cosmetic services for the care of hair and haircare services. However, for reasons that will become clear shortly, I do not consider that to be the case.
34. The opponent also submits that the applicant’s above referenced service is highly similar to its other class 44 services and similar to its class 26 and 21

⁹ [2024] EWHC 1098 (Ch) - paragraph 24

services. I, however, consider the closest comparator to be the opponent's class 44 "haircare services".

35. The compared services overlap in user and general purpose, that being members of the general public and to assist with grooming and hair styling. There is also an element of competition between these goods as users may choose to rent the styling equipment themselves, or to pay for the hair care services to get their hair styled. However, the applicant's service involves the making available of hair styling equipment to users by beauty suppliers or specialist equipment rental companies on a temporary basis, and the opponent's service involves the direct provision of hair treatments to maintain, improve or treat the user's hair by salons, hairdressers and beauty establishments. The compared services therefore differ in nature, specific purpose, method of use and trade channels. Noting all of the above, I consider these compared services to be similar to a low degree.

36. As some degree of similarity between the goods and services is required for a successful claim under section 5(2)(b) of the Act, the opponent's opposition must fail in respect of those services that I have found to be dissimilar,¹⁰ namely:

Class 41

Hairdressing instruction; Demonstration of hairdressing products for training purposes; Educational seminars relating to hairdressing techniques.

37. I will, however, proceed to consider whether there is a likelihood of confusion between the marks in issue for the remaining services which I have found to be identical or similar.

Average consumer and the purchasing act

38. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purpose of assessing the

¹⁰ *eSure Insurance v Direct Line Insurance* [2008] ETMR 77 CA

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 and services in question (see *Lloyd Schuhfabrik Meyer*¹¹).

39. In *Iconix* (as 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 by and 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

¹¹ Case C-342/97

must instead rely upon the imperfect picture of the trade mark they have kept in their mind.

40. The average consumer of the goods and services for which I have found identity or similarity will be members of the general public. Most of the goods are likely to be purchased reasonably frequently and may be relatively inexpensive. However, for example, the “false hair” goods can vary significantly in price, depending on their quality, which will also impact the frequency of its purchase. Consumers are also likely to consider factors such as price and suitability of the goods in issue, and therefore pay a low to medium degree of attention during the purchasing process (depending on the value of the goods).
41. The services for which I have found identity or similarity will also vary significantly in price and frequency of purchase, and consumers are likely to consider factors such as price, suitability, previous customer reviews/the reputation of the undertaking providing the service during the purchasing process. They will also consider ingredients or any potential allergies to the ingredients within the goods being utilised in the provision of the service (particularly for the hair colour/treatment services) during the purchasing process. Consequently, I consider that consumers are likely to pay between a medium and high degree of attention during the purchasing process.
42. Generally, the goods and services in issue will be purchased/engaged visually, with consumers considering visual advertising and websites. The selection process will, therefore, likely be predominantly a visual one. However, I note that there may also be verbal recommendations, and that the aural component of the selection process cannot therefore be ignored.

Distinctive character of the earlier trade mark

43. In *Lloyd Schuhfabrik Meyer* 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 C108/97 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)."

44. Distinctiveness is a scale along which marks of various types sit. A mark which is allusive of the goods/services will have less distinctive character than one that is not; dictionary words will also be less distinctive than words which are entirely fanciful. However, all will turn on the particular facts. For example, there are "invented" words which are really just composites of two allusive words and only distinctive as a result, and dictionary words which are more or less common than others. The distinctiveness of a mark may also be enhanced as a result of it being used in the market. However, I have no evidence before me of use of the earlier marks, and therefore I only have the inherent position to consider in this instance.
45. The opponent submits that the earlier marks are inherently distinctive as the word "Halo" has "no descriptive value" in relation to those goods and services for which the earlier marks are registered. The opponent also submits that any proposition that the word "Halo" has an "allusive or suggestive quality, perhaps hinting at the beneficial effect of applying haircare products or from receiving haircare services" is "vague or tenuous at very best".

46. By contrast, the applicant submits that the earlier marks are “not inherently distinctive to any notable degree”. Specifically, the applicant submits that the word “Halo” is “a commonplace and widely understood dictionary word” and is also a “widely used term within the beauty and cosmetic industry”.
47. It should be noted that the distinctiveness of a mark may be reduced as a result of it being commonly used by third parties in the relevant market place. In *Lifestyle Equities CV & Ors v Royal County of Berkshire Polo Club Ltd & Ors*,¹² Arnold LJ stipulated that “experience shows that third party use of similar signs does tend to diminish the distinctiveness of a trade mark. In a crowded market it is harder for one mark to stand out”. However, it is not sufficient to just show that there are marks registered for goods and services in the relevant field, evidence of use of those marks in the relevant field is necessary.
48. As discussed above, the applicant filed a witness statement signed by James Matthew Beeton dated 26 November 2025 with three corresponding exhibits, namely exhibits JMB1 to JMB3. This evidence can be summarised as follows:
- (i) Exhibit JMB1 includes screenshots of a search conducted of the UK trade mark register for marks containing the word “HALO” in classes 3,11,35,41 and 44. It is noted that the search shows that there are 22 marks on the register containing the word “HALO” and registered against those classes of goods and services.
 - (iii) Exhibit JMB2 includes a list of website links for business names containing the word “HALO” and a number of screenshots taken of various websites for companies either utilising the word “Halo”, or which sell goods utilising the word “Halo”.
 - (iii) Exhibit JMB3 contains screenshots from a number of websites referencing “Halo” nail products.

¹² [2024] EWCA Civ 814

49. It is noted that the opponent has raised a number of challenges to the evidence submitted by the applicant. Whilst the opponent's comments have been considered, it should also be noted that for various reasons I do not consider the evidence filed by the applicant to be sufficient to establish that the distinctive character of the word "Halo" (and therefore the earlier marks) has been diminished as a result of its use in the relevant market. This is because, firstly, in relation to exhibit JMB3, I have not made a finding of identity or similarity between the applicant's services or the opponent's nail related goods and services for the purpose of this decision¹³. These goods and services are not therefore in issue as my findings of identity and similarity have been limited to the opponent's hair related goods and services. Secondly, even if I had reached such a finding, it is also noted that none of the screenshots contained in exhibits JMB2 and JMB3 are dated, though Mr Beeton has confirmed in his witness statement that the exhibits were gathered from online open-source searches conducted via Google between 19 November 2025 and 26 November 2025. However, I am required to consider my understanding of the UK based consumer as at the relevant date for the opposition, being 2 October 2024. All of the evidence filed by the applicant in exhibits JMB2 and JMB3 therefore appears to relate to after the relevant date and is not therefore relevant for the purpose of these proceedings. This, therefore, leaves exhibit JMB1. However, as confirmed above, it is not sufficient to just show that there are marks registered for goods and services in the relevant field, evidence of use of those marks in the relevant field is necessary, and I do not have any such relevant evidence to consider in this instance.
50. Having said that, the earlier marks are made up of the word "Halo" which is an ordinary dictionary word defined as "a circle of light that is shown in pictures round the head of a holy figure such as a saint or angel".¹⁴ Without evidence being provided to the contrary, I agree with the opponent that there is no direct connection between the word "Halo" and the goods and services in issue. Accordingly, in my view, it is inherently distinctive to a medium degree.

¹³ Albeit, I also accept that I have not reached a finding that these goods and services are dissimilar.

¹⁴ <https://www.collinsdictionary.com/dictionary/english/halo>

Comparison of marks

51. It is clear from *Sabel BV v Puma AG* (particularly paragraph 23)¹⁵ 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 *Bimbo SA v OHIM*,¹⁶ 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.”

52. 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.

53. The respective trade marks are shown below:

Earlier marks	Contested mark
The 697 mark: Halo The 595 mark:	 The contested mark is a logo for 'HOUSE OF HALO & CO'. It features the words 'HOUSE OF HALO' in a serif font, with 'HALO' in a larger, bolder font. Below this, '& CO' is written in a smaller, simpler font. The entire logo is rendered in a light brown or tan color.

¹⁵ *Sabel BV v Puma AG* Case C-251/95

¹⁶ Case C-591/12P

Halo	
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54. The opponent submits that the “main concept” of the contested mark is the “House of Halo” element which “occupies the central and largest area” in the contested mark and “carries the most weight conceptually and visually”. However, the opponent also submits that the “House of” element is non-distinctive as a result of its widespread use when applied in connection with a trade mark. In support of this submission, as discussed above, the opponent filed a witness statement signed by James Mitchell dated 30 September 2025 in his capacity as legal representative for the opponent, along with 4 corresponding exhibits (namely exhibits JM1 to JM4). This evidence can be summarised as follows:

- (i) Exhibits JM1 and JM2 include undated screenshots of online results obtained for searches of the term “House of...”;
- (ii) Exhibit JM3 includes undated screenshots of online results for searches for the terms “House of Dior”, “House of Chanel” and “House of Gucci”; and
- (iii) Exhibit JM4 includes undated screenshots of online results for searches of “House of Guinness”.

55. As discussed above, the distinctiveness of a mark may be reduced as a result of it being commonly used by third parties in the relevant market place. The difficulty with the evidence that has been filed by the opponent is that the opponent has filed evidence of various marks utilising the words “House of” but in a wide variety of markets, none of which appear to be specifically for hair

related goods and services (which I consider to be the relevant market for the purpose of this opposition as this is where I have found identity or similarity between the goods and services in issue). Most of the evidence exhibited appears to relate to fashion houses and, therefore, would appear on the face of it to relate to clothing goods and services. There does appear to be some marks that are utilised in relation to beauty goods and services, but not specifically hair related goods and services. It is noted that this issue was highlighted by the applicant in its submissions in lieu, and there have been no further attempts to address this issue by the opponent.

56. Overall, I do not consider the evidence filed by the opponent to be sufficient to reach a finding that the words “House of” are non-distinctive on the basis of their use in the relevant market.
57. In contrast to the opponent, the applicant submits that the marks in issue are visually, aurally and conceptually dissimilar. Specifically, the applicant submits that a disproportionate emphasis and weight must not be placed on the word “HALO” in isolation, given its “low level of inherent distinctiveness”.

Overall Impression

58. The earlier marks are word marks containing the word “Halo”. There are no other elements which contribute to the mark, so the overall impression rests in the words themselves. The earlier marks are presented identically. Accordingly, my findings in respect of the similarity, or lack thereof between them, and the contested mark will apply equally.
59. The contested mark is a figurative mark made up of the word “House of Halo & Co”. All of the words in the contested mark are presented in an unremarkable brown uppercase typeface, and there appears to be a shadow behind the words “House of Halo”, albeit the shadow is extremely faint and difficult to view.
60. The contested mark also has a gold circular device positioned at a slight angle across the letter “A” in the word “Halo”. This device appears to me to be

reminiscent of a halo, and therefore simply reinforces the word “Halo” (i.e., the word upon which it is situated). Consequently, for all of the reasons outlined above, I consider the presentational elements of the contested mark (namely the stylisation and device elements) to play a lesser role in the overall impression of the mark to the word elements.

61. In respect of the words themselves, I consider that these will be understood as being short for ‘HOUSE OF HALO AND COMPANY’. The reference to ‘and company’ as ‘and co’ is something that is so common across many businesses in the UK that consumers will attribute it very little weight from a trade mark perspective. My finding in that respect is also bolstered by the fact that the “& CO” element is presented underneath the “HOUSE OF HALO” element, in what appears to be a slightly smaller font.
62. I consider that the words “HOUSE OF HALO” will be read as a unit, and that this unit plays a dominant role in the overall impression of the contested mark.

Visual Comparison

63. Visually, the marks overlap in the presence of the word “HALO”, which is the only word in the earlier marks, and the third word in the contested mark. The contested mark also has the additional words “HOUSE OF” prior to the word “HALO”, and the character “&” and word “CO” underneath, which are not present in the earlier marks.
64. As discussed above, the contested mark is presented in what I consider to be an unremarkable brown uppercase typeface, whereas the earlier marks appear on the register as “Halo” in a black typeface. However, as the earlier marks are registered as word marks this protects their use in any normal font, including upper and lower-case letters, or any customary combination of those characters.¹⁷

¹⁷ *LA Superquímica v European Union Intellectual Property Office (EUIPO)*, Case T-24/17 – paragraph 39

65. Weighing up all of the above, whilst also noting my findings in respect of the dominant elements of the compared marks, I find the marks to be visually similar to a low to medium degree.

Aural Comparison

66. As discussed above, I consider that the contested mark will be perceived as “HOUSE OF HALO AND COMPANY” and, whilst I have found it to have a limited role in the contested mark, I do consider that the “& COMPANY” element will be pronounced by the average consumer. Both of the earlier marks will also be pronounced in their ordinary way.
67. The compared marks therefore overlap in their use of the word “HALO”, which is the only word in the earlier marks and the third of the five words that will be pronounced in the contested mark. Noting this, I find the marks to be aurally similar to a low degree.

Conceptual Comparison

68. For a conceptual message to be relevant it must be capable of immediate grasp by the average consumer. This is highlighted in numerous judgments of the GC and the CJEU, including *Ruiz Picasso v OHIM*.¹⁸ The assessment must, therefore, be made from the point of view of the average consumer.
69. The earlier marks are solely made up of the word “HALO” which, as discussed above, is a standard English dictionary word defined as a circle of light that is shown in pictures round the head of a holy figure such as a saint or angel. I consider this to be the conceptual meaning the average consumer will attribute to the earlier marks.
70. The contested mark contains the words “HOUSE OF HALO & CO”. I consider that the word “Halo” will have the same meaning outlined in the paragraph above,

¹⁸ [2006] ECR I-643; [2006] E.T.M.R

and this conceptual meaning is simply reinforced by the “halo device” element in the contested mark. I also consider that the term “House of” will be understood as a reference to the group of people or organisation providing the applicant’s services, or perhaps the building from which it trades. Further, as confirmed above, the “& CO” element will simply be understood as “and company”. I do not consider that the stylisation of the contested mark provides any additional conceptual meaning.

71. Whilst I note the shared concept of the “Halo” element in the compared marks, the addition of the words “House of” and “& Co” in the contested mark act as points of conceptual difference, as they have no counterpart in the earlier marks. Overall, I therefore consider the compared marks to be conceptually similar to a low to medium degree.

Likelihood Of Confusion

72. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other, whilst indirect confusion is where the average consumer realises the marks are not the same but puts the similarity that exists between the marks and the goods/services down to the responsible undertakings being the same or related.
73. 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 (see *Iconix*¹⁹). The first is the interdependency principle i.e., a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective goods and services and vice versa (see *Canon*²⁰). It is necessary for me to keep in mind the distinctive character of the earlier marks, 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

¹⁹ *Iconix Luxembourg Holdings SARL v Dream Paris Europe Inc & Anor*, [2025] UKSC 25

²⁰ C-39/97, para 17

between trade marks and must instead rely upon the imperfect picture of them that he has retained in his mind.

74. Save for those services identified in paragraph 37 of this decision, I have found the applicant's services to be *Merix* identical or similar to between a low to high degree to the opponent's goods and services. I have also found the marks in issue to be visually and conceptually similar to a low to medium degree, aurally similar to a low degree, and that the earlier marks have a medium degree of inherent distinctive character.
75. I have identified the average consumer of the goods and services in issue (i.e., those goods and services for which I have found identity or similarity) as being members of the general public, who will demonstrate between a low and medium degree of attention when purchasing the goods in issue, and between a medium and high degree of attention during the purchasing of the services in issue. I have also identified that the purchasing process will be primarily visual, though aural considerations have not been excluded.
76. Weighing up all of the above, and whilst noting the principle of imperfect recollection, and that consumers rarely have the opportunity to compare marks side by side, I am satisfied that there are sufficient visual, aural and conceptual differences between the marks in issue to prevent a likelihood of direct confusion on the part of the average consumers. It is my view that the difference in presentation, and specifically the additional "House of" element in the contested mark, is too great for the average consumer to mistake one trade mark for the other. My finding in that respect is bolstered by the fact that the "House of" element is positioned at the beginning of the contested mark and the beginning of marks tend to have more visual and aural impact.²¹ For the avoidance of doubt, I consider that to be the case even where I have determined that a low level of attention will be paid by the average consumer during the purchasing process. I make this decision with due consideration of my finding that some of the goods and services in issue are identical or highly similar, and the interdependency

²¹ *El Corte Inglés, SA v OHIM* - Cases T-183/02 and T-184/02

principle, as I believe the differences between the marks in issue outweigh the level of similarity or identity between the goods and services.

77. Accordingly, I will go on now to consider whether the average consumer, having recognised that the marks are different, considers the common element of the marks in issue (the word “Halo”) and determines, through a mental process, that the marks are related and originate from the same, or an economically linked undertaking, i.e., whether there is indirect confusion.
78. Indirect confusion was described in the following terms by Iain Purvis KC, sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc*:²²

“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

²² BL O/375/10

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).²³

79. These three categories are not exhaustive; rather, they were intended to be illustrative of the general approach.²³ 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.²⁴ The Court of Appeal has also emphasised that, where there is no direct confusion, there must be a “proper basis” for finding indirect confusion.²⁵

80. As outlined above, I consider the common element of all of the marks in issue (being the word “Halo”) to have a medium level of inherent distinctive character. It is my view that this common element is sufficiently distinctive (and plays a sufficiently dominant role in the overall impression of all of the marks in issue) in relation to the goods and services which I have found to be identical or similar to a high degree that, when the average consumer is confronted with all of the marks in issue, they will believe these to be different marks used by the same undertaking, perhaps indicative of re-branding.²⁶ I do not consider it to be uncommon for undertakings to re-brand themselves from time to time to accommodate changes in marketing considerations. Consequently, I do consider

²³ *Liverpool Gin Distillery and others v Sazerac Brands, LLC and others* [2021] EWCA Civ 1207

²⁴ *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17

²⁵ *Liverpool Gin Distillery and others v Sazerac Brands, LLC and others* [2021] EWCA Civ 1207

²⁶ Rather than the marks being seen as a house mark and its sub-brand.

there to be a likelihood of indirect confusion in relation to the goods and services which I have found to be identical or similar to a high degree.

81. Having said that, I do not consider that to be the case in relation to the applicant's "rental of hair styling apparatus" services, which I have found to only be similar to a low degree to the opponent's class 44 term "haircare services" in the earlier 595 mark's specification. Given the distance between these compared services in terms of similarity, I am not satisfied that, when confronted with the common "Halo" element, the average consumer will make a connection between the marks and assume that these services derive from the same or an economically linked undertaking. I do not therefore consider there to be a likelihood of indirect confusion between the marks in respect of the services which I have found to be similar to only a low degree.

CONCLUSION

82. The opposition succeeds in respect of all of the applicant's services that I have found to be identical or similar to a high degree to the opponent's goods and services. Therefore, subject to any successful appeal of my decision, the contested mark is refused registration for the following:

Class 35: Retail services in relation to hair products.

Class 44: Hairdressing salon services; Hairdressing services; Hair salon services for women; Hair salon services for children; Hair salon services for men; Hair colouring services; Hair straightening services; Hair dyeing services; Hair cutting services; Hair curling services; Hair tinting services; Hair styling; Hair coloring services; Shampooing of the hair; Hair treatment services; Hair extension services; Hair highlighting services.

83. That being said, the contested mark may proceed to registration (again, subject to any successful appeal of my decision) for the following services, which I have

found only to be similar to a low degree, or dissimilar to the opponent's goods and services, namely:

Class 41: Hairdressing instruction; Demonstration of hairdressing products for training purposes; Educational seminars relating to hairdressing techniques.

Class 44: Rental of hair styling apparatus.

COSTS

84. As the opposition has partially succeeded, the opponent is entitled to a contribution towards their costs, based upon the scale published in Tribunal Practice Note 1/2023. In the circumstances, I award the opponent the sum of £1,250 as a contribution towards the cost of the proceedings. The sum is calculated as follows:

Official Fee:	£100 ²⁷
Preparing a Notice of Opposition & considering the other side's statement:	£200 ²⁸
Preparing evidence and considering the other side's evidence:	£600
Preparing submissions in lieu of a hearing:	£350
Total:	£1,250

85. I note that the opponent requested that I consider the applicant's decision to amend its specification 11 months after the opposition was initially filed when making any decision in relation to costs. Whilst I appreciate that there was some delay in amending the specification, I note that the amendment was made prior to either party filing evidence or written submissions in these proceedings, and the opponent pursued the opposition irrespective of the amendments. The impact of these amendments to the contested mark's specification was,

²⁷ Whilst the Official Fee paid for the filing of the Notice of Opposition was £200, I have only ordered a contribution of £100 towards the Official Fee to reflect the fact that the section 5(3) ground was not supported by any evidence.

²⁸ Reduced to reflect the fact that the applicant was only partially successful.

therefore, fairly limited. Accordingly, I do not consider that the cost contribution outlined above should be altered on this basis.

86. I therefore order House of Halo and Company Limited to pay The Stockroom (Kent) Limited the sum of **£1,250**. This sum should 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 30th day of September 2026

B Hartland

For the Registrar

Annex 1

Class 3

Toiletries; beauty care preparations; cosmetic nail care preparations; nail polish; nail polish top coat; nail gel; nail enamel; gel nail removers; cosmetic preparations for nail drying; professional nail products; UV nail gel; LED nail gel; gel polish for nails; non-medicated beauty preparations; cosmetic cleaning preparations; detergent products for nail care or cosmetic purposes; cleaning and fragrancing preparations; cosmetic cleaning preparations for nails.

Class 35

Online retail store services relating to cosmetic and beauty products, cosmetic nail care preparations, nail strengtheners, cosmetic nail care preparations for artificial and natural nails, gel polish, cosmetic and beauty care products, detergents, cleaning and fragrancing preparations, artificial nail preparations, nail care preparations, nail gel, hand operated hygienic and beauty implements, nail buffers, nail files, nail clippers, nail scissors, manicure and pedicure tools, nail brushes, electrical dryers for the hands and nails, led lights.

Annex 2

Class 21

Cosmetic, hygiene and beauty care utensils, namely brushes, sponges, applicators, compacts, holders, droppers and spatulas for cosmetic, hygiene and beauty care purposes; none of the aforementioned goods to include tableware, ovenware, ornamental articles, models, figurines (statuettes), vases, coasters, glassware, chinaware, pottery, porcelain or earthenware.

Class 26

Hair ornaments; hair rollers; hair fastening articles; false hair.

Class 44

Beauty care services; beauty salons; spas; nail salons; cosmetic services for the care of the body, hair, skin and nails; haircare services; aesthetician services; beauty therapy treatments; consultation services relating to beauty care.