

BL O/0914/26

TRADE MARK ACT 1994

IN THE MATTER OF APPLICATION NUMBER UK00004355618

BY Tedford Services Group Ltd

TO REGISTER THE FOLLOWING MARK IN CLASSES 35 and 42

CITED BY AI

Background

1. On the 16 March 2026, Tedford Services Group Ltd ("the applicant") applied to register the above indicated word only mark via a Right Start application, in respect of the following goods:

Class 35: Business intelligence services; marketing analytics services; consultancy services relating to AI search visibility and brand citation monitoring.

Class 42: Software as a service (SaaS) for analysing and scoring web content for retrieval by artificial intelligence systems; providing online tools for AI search engine optimisation; data analytics services relating to AI citation monitoring and AI search visibility.

2. On the 25 March 2026 the Intellectual Property Office ("IPO") issued an examination report in response to the application. In the report, the following objection was raised under the provisions of Section 3(1)(b) and (c) of the Trade Marks Act 1994 ("The Act"):

Section 3(1)(b) and (c)

The application is not acceptable in Classes 35 and 42. There is an objection under Section 3(1)(c) of the Act because the mark consists exclusively of the sign CITED BY AI, which may serve in trade to designate the kind and characteristics of the services applied for, namely AI search visibility, brand citation monitoring, marketing analytics, and software and tools used to analyse and optimise content so that it can be retrieved and cited by artificial intelligence systems.

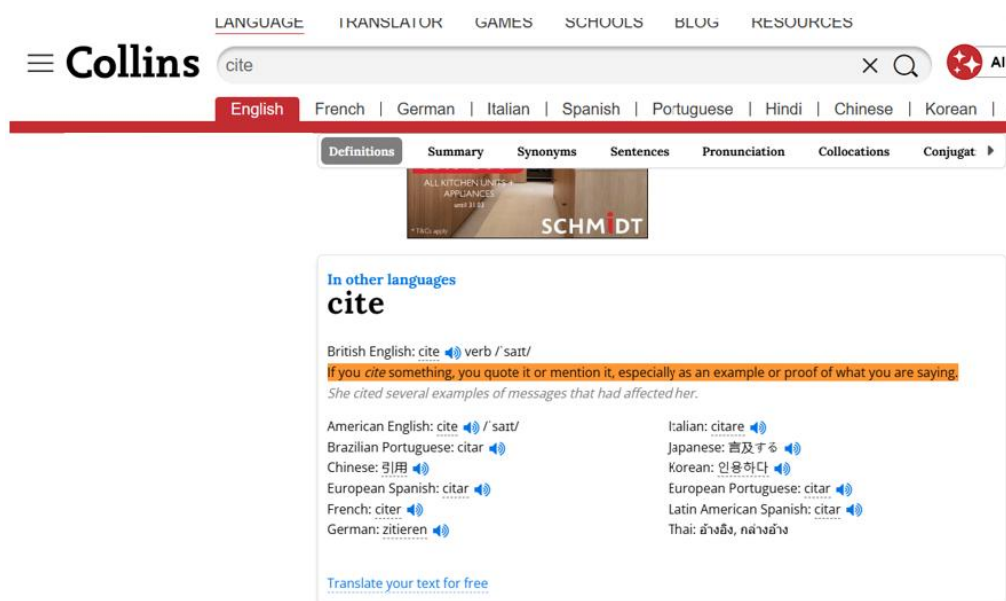
The words "cited" is defined by Collins as the following: "If you cite something, you quote it or mention it, especially as an example or proof of what you are saying". AI is a recognised term for artificial intelligence. When used together, the phrase CITED BY AI will be immediately understood by the average consumer as describing content, brands or businesses that are referenced or cited by artificial intelligence systems.

Please see the dictionary meaning in Annex A at the end of this report.

As a result, the sign directly describes what the services do or aim to achieve, rather than indicating trade origin. A sign which designates characteristics or the intended purpose of the services is excluded from registration under section 3(1) (b) & (c) of the Act. As the mark is wholly descriptive of the nature and objective of the services applied for, it cannot be registered as a trade mark.

Annex A

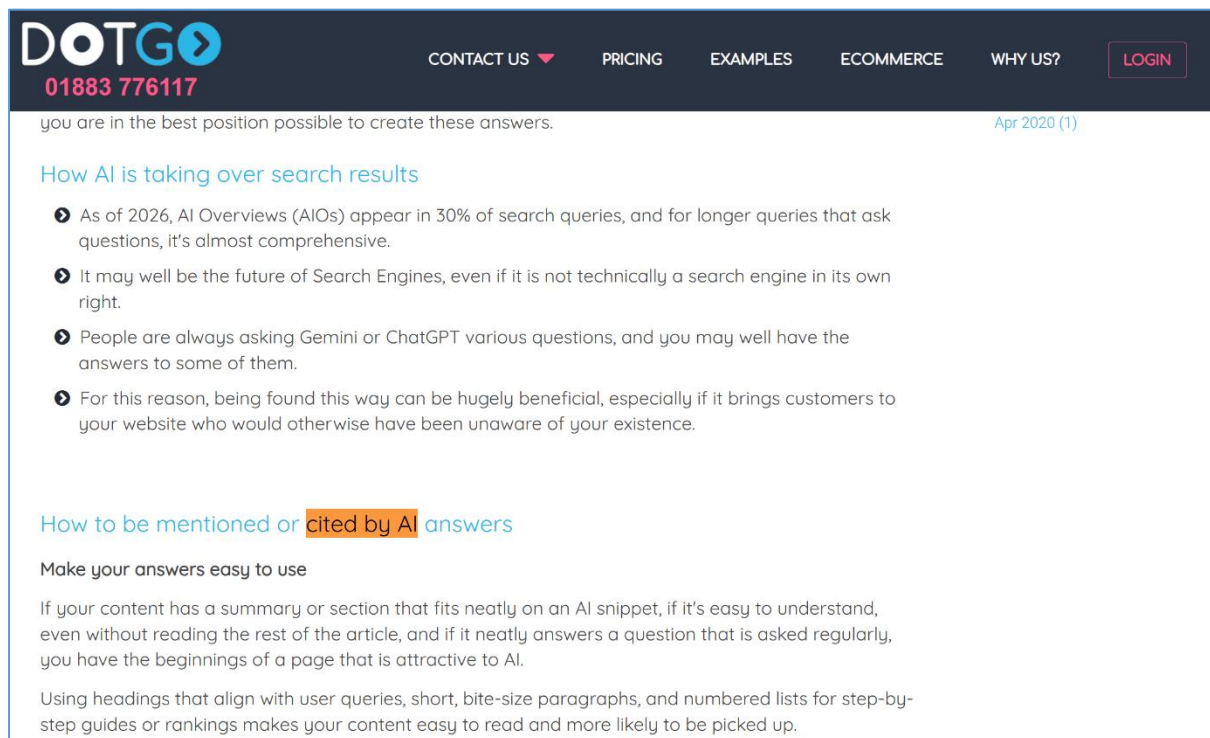
<https://www.collinsdictionary.com/dictionary/english/cite>



3. In line with IPO procedure, a period of two months was allowed in order for the applicant to respond.
4. On the 27 March 2026 the applicant paid the balance of their Right Start application fee and also confirmed their intention to provide a substantive response to the absolute grounds objection; they also requested a two-month extension of time in order to prepare their response. This request was duly granted by the examiner, resulting in a deadline to respond of 1 June 2026.
5. On the 30 March 2026 the applicant contacted the examiner by telephone to request a hearing, with a view to overcoming the outstanding absolute grounds objection. This request was also confirmed in writing on the same day. The subsequent hearing came before me on 23 April 2026 with Mr Mimassi in attendance on behalf of the applicant.
6. At the hearing, Mr Mimassi provided oral submissions which are summarised as follows:
 - *The sign CITED BY AI is not currently in use in trade, with terms such as 'AI search optimisation' being the established and apt terminology in the trade.*
 - *The sign CITED BY AI is formed of an unusual combination of words.*
 - *No evidence was produced by the examiner to support their objection.*
7. I deferred my decision at the hearing in order to further consider Mr Mimassi's submissions, subsequently rendering my decision to maintain the Section 3(1)(b) and (c) objection in my hearing report of 1 May 2026. The reasons stated for the maintaining of the absolute grounds objection are summarised in brief below:

- The expression CITED BY AI is formed of words and an initialism which are widely used and readily understood by the average consumer in the UK. When applying the normal rules of English language and grammar the average consumer would understand the mark as a whole as a complete and grammatically correct expression.
- The grammatically correct and intellectually meaningful expression CITED BY AI would be perceived by the average consumer as a mere description of the intended purpose of the services. Specifically, the various consultancy, analytics and optimisation services will increase the visibility of the average consumer's online content to AI search engines, ensuring that the online content is CITED BY AI.
- Alternative terminology such as AI SEARCH OPTIMISATION being established as descriptors in the relevant sector does not diminish the descriptiveness of the sign CITED BY AI. Similarly, the argument that CITED BY AI is not in current use by competitors was not necessarily a factor in the assessment of whether the expression CITED BY AI 'may serve in trade' to describe the intended purpose of the services.
- Since it is sufficient that the sign CITED BY AI 'may serve in trade' to describe the intended purpose of the services based on the ordinary meaning of the words, it is not necessarily a requirement that an examiner furnish the applicant with evidence of the sign being used descriptively, in trade in order to support their objection.

Although I expressed that my primary reasoning for maintaining the objection was based on the sign CITED BY AI serving as a descriptor as a consequence of the natural and ordinary meaning of the words themselves, I nonetheless provided the applicant with examples of descriptive use in the trade. The below examples were provided to the applicant as part of the hearing report:



The screenshot shows the DOTGO website header with navigation links: CONTACT US, PRICING, EXAMPLES, ECOMMERCE, WHY US?, and a LOGIN button. The phone number 01883 776117 is displayed. The main content area features an article titled "How AI is taking over search results" dated Apr 2020 (1). The article includes a list of four points:

- As of 2026, AI Overviews (AIOs) appear in 30% of search queries, and for longer queries that ask questions, it's almost comprehensive.
- It may well be the future of Search Engines, even if it is not technically a search engine in its own right.
- People are always asking Gemini or ChatGPT various questions, and you may well have the answers to some of them.
- For this reason, being found this way can be hugely beneficial, especially if it brings customers to your website who would otherwise have been unaware of your existence.

Below the list is a section titled "How to be mentioned or cited by AI answers" with the subheading "Make your answers easy to use". The text in this section reads: "If your content has a summary or section that fits neatly on an AI snippet, if it's easy to understand, even without reading the rest of the article, and if it neatly answers a question that is asked regularly, you have the beginnings of a page that is attractive to AI." It also mentions: "Using headings that align with user queries, short, bite-size paragraphs, and numbered lists for step-by-step guides or rankings makes your content easy to read and more likely to be picked up."

Figure 1 - Example of CITED BY AI in descriptive use in trade. (<https://www.dotgo.uk/website-design-advice/how-to-get-your-website-noticed-by-ai>)

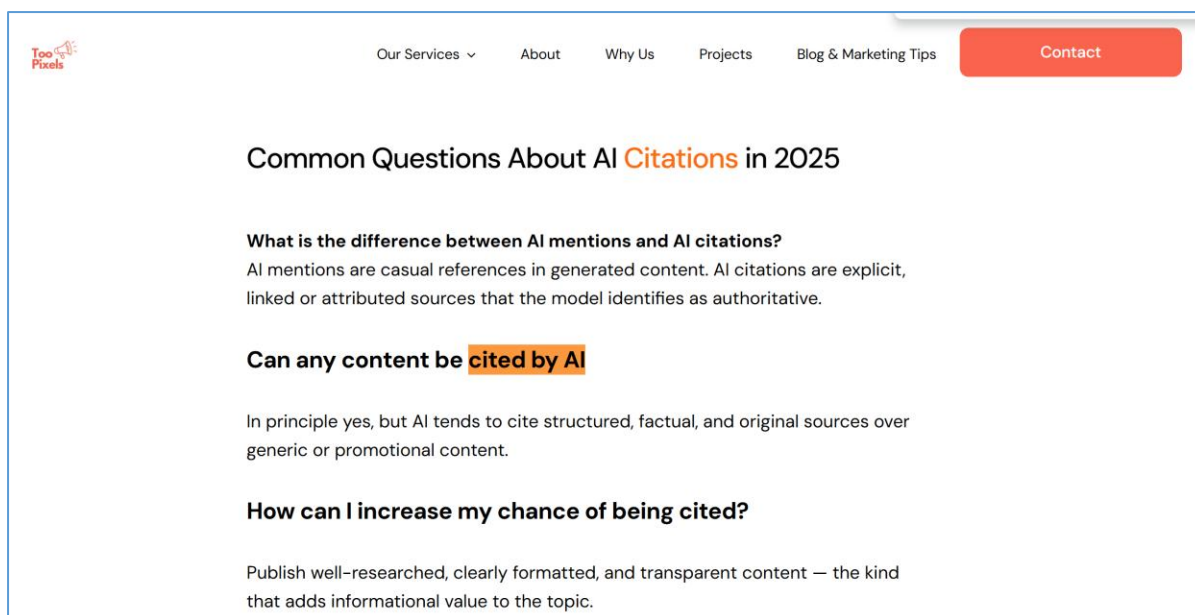


Figure 2 - Example of CITED BY AI in descriptive use in trade. (<https://toopixels.com/ai-citations-organic-visibility/>)

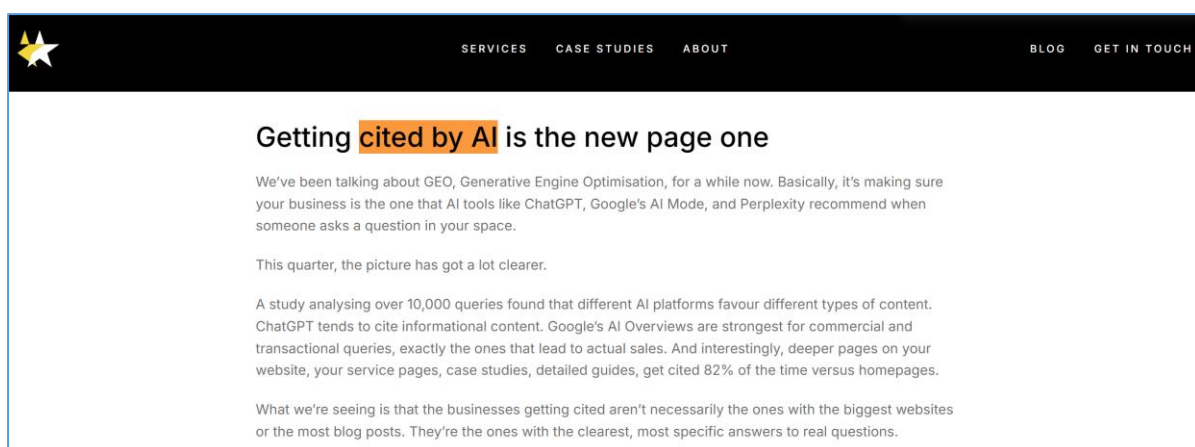


Figure 3 - Example of CITED BY AI in descriptive use in trade. (<https://www.devstars.com/blog/generative-engineoptimisation/>)

8. On the 1 May 2026 the applicant provided written submissions seeking to rebut my decision. These submissions are summarised as follows:
 - *The sign does not designate the nature, kind or other characteristics of the services themselves and as a result, the expression CITED BY AI is allusive rather than directly descriptive.*
 - *The examples of descriptive use included in the hearing report (shown above) showed use of CITED BY AI as part of wider narratives or editorial copy rather than necessarily use as a trade mark. As a result, these examples are not indicative of descriptive use in the trade.*
 - *Competing companies identified by the applicant do not use CITED BY AI to describe the services they offer. The signs CITED AGENCY and CITE:D are used instead and the use of these alternate marks demonstrates that no need to keep free considerations apply in respect of this application.*

- *The average consumer would be more attentive and is likely to be familiar with established descriptive terms in trade such as GEO, AEO, ASEO, AI Citations; they would recognise CITED BY AI is not one of these established generic descriptors and as a result, would perceive it as a trade mark.*
9. My correspondence of 23 June 2026 addressed these submissions from the applicant, with my responses summarised as follows:
- *The provisions of Section 3(1)(c) of the Act pertain to characteristics beyond those which merely describe the 'kind' of service and that, as was set out in my report, the basis of the objection was concerned with the sign CITED BY AI designating the 'intended purpose' of the services.*
 - *My conclusion that the sign CITED BY AI was apt to describe the intended purpose of the services being offered under that sign was based on the natural and ordinary meaning of the words themselves and the likely perception of the average consumer who is presented with the complete expression in connection with the services concerned. Accordingly, and as was expressed in the hearing report, the examples annexed to the hearing report were not determinative on the outcome of my assessment, they were merely intended to support that it was reasonable for me to conclude that the phrase CITED BY AI 'may' serve in trade to designate the intended purpose of the services.*
 - *Although the examples of use included in my hearing report demonstrated use of the phrase CITED BY AI as a part of a wider narrative (rather than use commensurate with that of a trade mark), they did nonetheless demonstrate use by third parties of a kind which support a finding that the expression was apt to describe the intended purpose of the services.*
 - *The existence and use of alternative expressions in the trade to describe the intended purpose of the services concerned was not necessarily relevant to the assessment before me. It was sufficient that the phrase CITED BY AI was descriptive in its own right. Equally, third parties opting to implement alternative signs such as CITE:D or CITED AGENCY as trade marks was not indicative of the expression CITED BY AI being inherently distinctive.*
10. In issuing the above response I also confirmed that the application was duly refused in accordance with the provisions of Section 37(4) of the Trade Marks Act 1994. The applicant subsequently submitted an official form TM5 on the 22 July 2026, requesting a statement of reasons for the registrar's decision.

The Law

11. The relevant section of the Act reads as follows:

3(1) the following shall not be registered-

- (a) ...
- (b) *trade marks which are devoid of any distinctive character,*

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

(d) *...*

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

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 some decisions of the EU courts which predate the UK's withdrawal from the EU.

The Relevant Legal Principles – 3(1)(c)

13. The case law under section 3(1)(c) of the Act was summarised by Arnold J (as he then was) in *Starbucks (HK) Ltd v British Sky Broadcasting Group Plc*. [2012] EWHC 3074 (Ch). These are the most relevant points:

- a. *The general interest underlying section 3(1)(c) is that of ensuring that descriptive signs relating to one or more characteristics of the goods or services in respect of which registration as a mark is sought may be freely used by all traders offering such goods or services.*
- b. *With a view to ensuring that that objective of free use is fully met, it is not necessary that the sign in question actually be in use at the time of the application for registration in a way that is descriptive. It is sufficient that the sign could be used for such purposes.*
- c. *The application of that ground for refusal does not depend on there being a real, current or serious need to leave a sign or indication free and that it is therefore of no relevance to know the number of competitors who have an interest, or who might have an interest, in using the sign in question. It is, furthermore, irrelevant whether there are other, more usual, signs than that at issue for designating the same characteristics of the goods or services referred to in the application for registration.*
- d. *The situations specifically covered by section 3(1)(c) of the Act are those in which the sign in respect of which registration as a mark is sought is capable of designating a 'characteristic' of the goods or services referred to in the application. By using the terms 'the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service, or other characteristics of the goods or service', the legislature made it*

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

- e. The fact that the legislature chose to use the word 'characteristic' highlights the fact that the signs referred to in section 3(1)(c) of the Act are merely those which serve to designate a property, easily recognisable by the relevant class of persons, of the goods or the services in respect of which registration is sought. A sign can be refused registration on the basis of section 3(1)(c) only if it is reasonable to believe that it will actually be recognised by the relevant class of persons as a description of one of those characteristics.*
- f. In addition, a sign is caught by the exclusion from registration in section 3(1)(c) if at least one of its possible meanings designates a characteristic of the goods or services concerned.*

14. Additionally, a number of judgements have been handed down by the CJEU which have established the scope of Article 3(1)(c) of the First Council Directive 89/104 (recoded and replaced by Directive 2008/95/EC on the 22 October 2008 which in turn, was repealed and replaced by Directive 2015/2436 on the 15 January 2019) and Article 7(1)(c) of the Community Trade Mark Regulations, whose provisions correspond to section 3(1)(c) of the UK Trade Marks Act 1994. For the avoidance of doubt, it is noted that the Trade Marks Act 1994 is largely derived from EU law (Directive 2015/2436). I derive the following main guiding principles from the cases noted below:

- Subject to any claim in relation to acquired distinctive character, signs and indications which may serve in trade to designate the characteristics of goods or services are deemed incapable of fulfilling the indication of origin function of a trade mark (Wm Wrigley Jr & Company v OHIM, C-191/01P 'Doublemint', paragraph 30);*
- Article 7(1)(c) (section 3(1)(c)) pursues an aim which is in the public interest, namely that signs or indications relating to the categories of goods or services in respect of which registration is sought may be freely used by all. The provision therefore prevents such signs or indications from being reserved to one undertaking alone because they have been registered as trade marks (see judgment of 4 May 1999 in Joined cases C108/97 and C-109/97 Windsurfing Chiemsee Produktions-und Vertriebs GmbH (WSC) v Boots-und Segelzubehör Walter Huber and Franz Attenberger (Chiemsee) [1999] ECR I2779, at paragraph 25);*
- It is an accepted principle in law, that in the context of Section 3(1)(c) of the Act, the expression 'may serve in trade' includes within its scope the possibility of future use even in instances where, at the date of application, the sign for which protection is sought is not used descriptively in trade (to that effect, CJEU Cases C-108/97 and C109/97 Windsurfing Chiemsee Produktions und Vertriebs GmbH v Boots and Segelzubehor Walter Huber and others).*
- Further to the established principle of 'future use', it is also settled in law that the fact there may be little or no current use of the sign in trade at the time of application*

is not a determinative factor in assessing a marks acceptability for registration. The expression 'may serve in trade' should be interpreted as meaning 'could' the sign for which protection is sought serve to designate a characteristic of the goods or services (Wm Wrigley Jr & Company v OHIM, C-191/01P "Doublemint").

- *Article 3(1)(c) [Trade Mark Directive] precludes registration of a trade mark which consists exclusively of signs or indications which may serve, in trade, to designate characteristics of the goods or services in respect of which registration is sought, and that is the case even when there are more usual signs or indications for designating the same characteristics and regardless of the number of competitors who may have an interest in using the signs or indications of which the mark consists (see C-363/99 KPN/BMB Postkantoor).*
- *It is also a well-established principle that the Registrar's role is to engage in a full and stringent examination of the facts, underlying the Registrar's frontline role in preventing the granting of undue monopolies, see to that effect CJEU Case C-51/10 P, Agencja Wydawnicza Technopol sp. z.o.o. v OHIM [2011] ECR I-1541 (Technopol);*
- *When determining whether a sign is devoid of distinctive character or is descriptive of the goods or services in respect of which registration is sought, it is necessary to take into account the perception of the relevant consumer who is reasonably well-informed and reasonably observant and circumspect (Matratzen Concord AG v Hukla Germany SA, C-421/04);*
- *There must be a sufficiently direct and specific relationship between the sign and the goods in question to enable the relevant consumer immediately to perceive, without further thought, a description of the category of goods and services in question or one of their characteristics (Ford Motor Co v OHIM, T67/07).*

15. In respect of my assessment of the of the goods and services, I have taken into account the comments of the CJEU in Case C-239/05, BVBA [2007] E.C.R. I-1455 which stated:

"34....an examination of the grounds for refusal listed in Art.3 of the Directive must be carried out in relation to each of the goods and services for which trade mark registration is sought and, secondly, that the decision of the competent authority refusing registration of a trade mark must, in principle, state reasons in respect of each of those goods or services.

35 That conclusion cannot be any different where an application to the competent authority for a range of goods or services does not contain a subsidiary application for registrations of the mark concerned for specific classes of goods or services or for goods and services considered separately.

36 The duty upon the competent authority to state reasons for refusing to register a trade mark in relation to each of the goods or services for which such registration is sought also arises from the essential requirement for any decision of a national authority refusing the benefit of a right conferred by Community law to be subject to judicial review which is designed to secure effective protection for that right and which, accordingly, must cover the legality of the reasons for the decision....

37 However, where the same ground of refusal is given for a category or group of goods or services, the competent authority may use only general reasoning for all of the goods and services concerned.”

16. I have also taken into account the consequences for third parties of granting the holder a monopoly. In *Linde A.G. v Rado Uhren A.G.* Case C-53/01 the following guidance was given:

“73. According to the Court’s case-law “Article 3(1)(c) of the Directive pursues an aim which is in the public interest, namely that descriptive signs or indications relating to the characteristics of goods or services in respect of which registration is applied for may be freely used by all, including as collective marks or as part of complex or graphic marks. Article 3(1)(c) therefore prevents such signs and indications from being reserved to one undertaking alone because they have been registered as trade marks (see to that effect, Windsurfing Chiemsee, paragraph 25).

74. The public interest underlying Article 3(1)(c) of the Directive implies that, subject to Article 3(3) any trade mark which consists exclusively of a sign or indication which may serve to designate the characteristics of goods or a service within the meaning of that provision must be freely available to all and not be registrable.”

Application of legal principles

17. Firstly, with regard to identifying the average consumer, it is clear from the specification included in the application that the average consumer will likely consist of businesses and organisations who are seeking to improve the visibility of their online presence and digital content to AI driven search engines. In broad terms, AI search engine optimisation (AISEO) pertains to the practice of structuring web content in such a manner that generative AI engines may more easily identify, read, extract and cite your brand or content as an authoritative source. It is considered that the services listed in classes 35 and 42 pertain to consultancy, analysis and optimisation of digital content with a view to increasing the likelihood of it being cited by AI.
18. As was stated in the hearing report and in my subsequent correspondence to the applicant, it is accepted that these services are somewhat technical in nature and as a result, the average consumer may be paying a higher degree of attention when seeking out the services concerned. However, I am not convinced that the average consumer being more attentive necessarily has an impact on the outcome of the decision before me in this instance. As I will come on to, it is considered that the expression CITED BY AI is apt to serve as a descriptor within the technology sector concerned and as such, even where the consumer is paying a higher degree of attention they will nonetheless perceive the sign as a description of the intended purpose of the services. In this regard, I am mindful that even if it is established that the degree of attention of the relevant consumer is higher than that of an average consumer, this does not, in and of itself, lead to a finding that a sign which is weaker in distinctive character is rendered sufficiently distinctive (*CJEU C-311/11P Smart Technologies ULC v. OHIM* refers– [at para 48]).

“48. In that regard, it must be held that the fact that the relevant public is a specialist one cannot have a decisive influence on the legal criteria used to assess the distinctive character of a sign. Although it is true that the degree of attention of the relevant

specialist public is, by definition, higher than that of the average consumer, it does not necessarily follow that a weaker distinctive character of a sign is sufficient where the relevant public is specialist.”

19. Having established the sector in which the services in question would be marketed and provided, as well as the likely level of attention of the average consumer, I now turn to consider the inherent distinctive character of the mark in relation to the services for which protection is sought.

20. In my view it is reasonable to suggest that the mark CITED BY AI is formed from words and abbreviations which are commonly used and widely understood by the UK public, in line with the dictionary definitions below:

- **CITED**- verb, past participle of cite- to speak or write words taken from a particular writer or written work ([Cambridge dictionary](#)).
- **BY**- preposition- used to show the person or thing that does something ([Cambridge dictionary](#)).
- **AI**- noun- abbreviation for artificial intelligence- the use or study of computer systems or machines that have some of the qualities that the human brain has, such as the ability to interpret and produce language in a way that seems human, recognize or create images, solve problems, and learn from data supplied to them. ([Cambridge dictionary](#))

21. Moreover, it is considered that the expression formed by the combination of these verbal elements is grammatically correct and intellectually meaningful. In my view, when applying the normal rules of English language and grammar, the average consumer would immediately comprehend that the expression CITED BY AI conveys the concept of information being referenced by artificial intelligence. Of course, with this in mind it is essential that I carefully consider how, assuming fair and notional use in trade, this grammatically correct expression will be perceived by the average consumer of services associated with the provision of business intelligence, marketing analytics and consultancy related to AI search visibility and AI citation.

22. In this regard I note the comments of the applicant where it was submitted that the services *'are not themselves a state of being cited by AI'* and that *'...the sign CITED BY AI...does not designate the nature, kind, or characteristics of the services themselves'*. I understand these submissions to relate to the applicant's position that the expression CITED BY AI does not describe the 'kind' of services. However, as was stated in the hearing report and my subsequent correspondence, it is my view that the sign CITED BY AI is apt to describe the 'intended purpose' of the services concerned.

23. It is considered that the services included in the application are offered in the pursuit of increasing the likelihood of an average consumer's brand or online content being cited as a source in an AI generated answer, and it is in this context that I must consider the likely perception of the average consumer. It is further considered that the word only mark CITED BY AI is a complete and grammatically correct expression and as a result, the average consumer will read the words and take them at face value, immediately appreciating them as apt to denote that the services will serve to ensure that their brand and digital content will be CITED BY AI. Indeed, it is noteworthy that in the applicant's correspondence of 1 May 2026 they state that ***"The sign CITED BY AI describes the***

aspirational outcome that clients seek to achieve by using the services (my emphasis)- *it does not designate the nature, kind, or characteristics of the services themselves*". Respectfully, I would suggest that this comment from the applicant reinforces my concerns that the natural and ordinary meaning of the words may serve to convey a descriptive message about the intended purpose of the services being offered.

24. Turning to the applicant's submissions that other terms have become established in trade such as '*generative engine optimisation*' (GEO), '*answer engine optimisation*' (AEO), '*AI search engine optimisation*' (AISEO) and '*AI citations*' and that as a result of this established terminology, the average consumer would '*...recognise that CITED BY AI is not one of those generic descriptors but a specific branded platform*'. Respectfully, I disagree that the existence of these established terms would necessarily result in an average consumer perceiving CITED BY AI as a trade mark. Instead, I would suggest that the average consumer's perception will be influenced by qualities which are inherent to the sign itself, specifically, the particular words used and impression those words make when the mark is considered as whole. I am mindful of the comments of the CJEU in this regard where they remarked that (my emphasis):

"Article 3(1)(c) [Trade Mark Directive] precludes registration of a trade mark which consists exclusively of signs or indications which may serve, in trade, to designate characteristics of the goods or services in respect of which registration is sought, and that is the case even when there are more usual signs or indications for designating the same characteristics and regardless of the number of competitors who may have an interest in using the signs or indications of which the mark consists (see C-363/99 KPN/BMB Postkantoor)."

25. Similarly, I do not accept the applicant's proposition that the adoption of brand names such as CITED AGENCY or CITE:D by competing service providers is relevant to the assessment of the inherent distinctive character of the sign CITED BY AI. Respectfully, it does not seem reasonable to infer that the use of alternative signs as trade marks by third parties is indicative of CITED BY AI's inaptness to describe the intended purpose of the services concerned. Instead, it is considered that the assessment before me must be informed by the inherent qualities of the mark itself and the facts of the case and it would be inappropriate for me to speculate on the motives of third parties in the branding of their services. In this respect, and further to the Postkantoor reference above, I am cognizant of the following remarks of the CJEU:

*"Further to the established principle of 'future use', it is also settled in law that **the fact there may be little or no current use of the sign in trade at the time of application is not a determinative factor in assessing a marks acceptability for registration** (My emphasis). The expression 'may serve in trade' should be interpreted as meaning 'could' the sign for which protection is sought serve to designate a characteristic of the goods or services (Wm Wrigley Jr & Company v OHIM, C-191/01P "Doublemint")."*

26. In light of the above and as stated previously, it is sufficient that the expression CITED BY AI may serve in trade to designate the intended purpose of the services concerned and it was on this basis that the application was ultimately refused. However, a sample of exhibits were also provided in the original hearing report which were intended to demonstrate to the applicant that CITED BY AI is in fact being used descriptively by third parties. In their response to the hearing report, the applicant submitted that, in essence, these examples were not relevant as a result of the phrase CITED BY AI appearing as a part of "*educational or editorial body copy, describing what AI systems do to content*", suggesting that only examples showing use in a manner commensurate with a trade mark would be relevant.

27. I respectfully disagree that the descriptive use of CITED BY AI by third parties is rendered irrelevant as a consequence of the expression appearing as part of a wider narrative, for example, as shown in the heading '**Can any content be cited by AI**' (see figure 2). Indeed, it is considered that such examples provide useful evidence of the capacity of the expression CITED BY AI to serve as a descriptor within the trade concerned, with the examples included in the hearing report showing competing service providers offering guidance on which kinds of content can be cited by AI, the importance of being cited by AI or how to increase the likelihood of one's content being cited by AI. I believe it is unreasonable to suggest that evidence showing descriptive use of a sign should be limited to only include examples where the offending sign appears solus.

28. In summary, the services being offered by the applicant under the sign CITED BY AI broadly pertain to analytics, consultancy and business services related to AI search visibility and AI citation monitoring; these services are essentially intended to improve the likelihood of a consumer's online content being cited by artificial intelligence. Given the natural and ordinary meaning of the words and that the manner of their conjunction forms a grammatically correct and descriptive phrase, it is considered reasonable to conclude that CITED BY AI would be recognised by the relevant class of persons as a mere description of the intended purpose of the services concerned. Furthermore, it is considered to be irrelevant that competing providers have selected alternative signs in the branding of their companies and, additionally, that the availability of alternate terminology is immaterial in an assessment of the inherent distinctiveness of the mark for which protection is sought.

29. In light of all of the above, I am mindful of the risks to trade which are inherent should the registrar grant rights in a sign which may serve an exclusively descriptive purpose. As was noted by the CJEU:

"Article 7(1)(c) (section 3(1)(c)) pursues an aim which is in the public interest, namely that signs or indications relating to the categories of goods or services in respect of which registration is sought may be freely used by all. The provision therefore prevents such signs or indications from being reserved to one undertaking alone because they have been registered as trade marks (see judgment of 4 May 1999 in Joined cases C108/97 and C-109/97 Windsurfing Chiemsee Produktions-und Vertriebs GmbH (WSC) v Boots-und Segelzubehör Walter Huber and Franz Attenberger (Chiemsee) [1999] ECR I2779, at paragraph 25);"

30. Given that the mark, in my view, merely serves to exclusively designate a characteristic of the goods, it is considered that the objection under 3(1)(b) is contingent on the 3(1)(c) objection, there is no separate 3(1)(b) objection under consideration.

Conclusion

31. In this decision, I have carefully considered all the submissions and arguments made during the proceedings and, having done so, concluded that for the reasons set out above, the application is refused in respect of the goods applied for because it fails to qualify for registration under Section 3(1)(b) and (c) of the Act.

Dated this 6th day of October 2026

**Darren Smith
For the Registrar**