BL O/1012/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. 4027158

IN THE NAME OF EVLYNX LTD

TO REGISTER THE FOLLOWING TRADE MARK:

EVLynx

IN CLASS 9, 35 AND 37

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NO. 448334

BY SCHNEIDER ELECTRIC INDUSTRIES SAS

AND

IN THE MATTER OF AN APPEAL TO THE APPOINTED PERSON

BY SCHNEIDER ELECTRIC INDUSTRIES SAS

AGAINST A DECISION OF L A BAILEY (O/0119/26)

DATED 13 FEBRUARY 2026

DECISION

Introduction

1. This is an appeal from a decision of L A Bailey acting for the Registrar dated 13 February 2026 (**"the Decision"**) in relation to an opposition brought by Schneider Electric Industries SAS (**"the Appellant"**) regarding UK trade mark application no. 4027158 for the mark shown above (**"the Respondent's Mark"**).

2. The Appellant opposed the application based on section 5(2)(b) of the Trade Marks Act 1994 (**"the Act"**). The Hearing Officer dismissed the opposition, concluding that there was no likelihood of direct or indirect confusion.

The Appeal

3. On 12 March 2026 the Appellant filed a Notice of Appeal to the Appointed Person under s.76 of the Act. In its Notice of Appeal, it stated that it had come to the Appellant's attention that the Respondent was dissolved on 12 August 2025, and enclosed relevant extracts from Companies House confirming that. The Appellant sought a direction from me pursuant to my powers under Rule 62a and Rule 73(4) of the Trade Mark Rules 2008 *"to direct the Respondent to disclose information regarding the ownership status of [the Respondent's Mark]"*. This would enable the Appellant *"to identify the legal entity responding to the Appeal"*.

4. I declined to make such a direction since the Respondent was no longer in existence, so that there was no point in my issuing any direction to it.

5. The Appellant, through its representatives Albright IP, confirmed that it wanted me to proceed to make a decision on the papers without the need for a hearing. No written submissions in lieu of a hearing were filed.

6. Mr Phillip Johnson, sitting as the Appointed Person, in *Parabolica Ltd v Tesla, Inc* (BL O/0875/26) recently had to consider the position where one of the parties in an appeal to the Appointed Person had been wound up. In that case, the Appellant had been struck off shortly after filing an appeal against the decision of the Hearing Officer to refuse its trade mark application on the ground that it had been applied for in bad faith. Mr Johnson dismissed the appeal on the basis that the Appellant no longer existed and there was no

public interest in continuing to determine the appeal. In this case, the Respondent had already ceased to exist prior to the filing of the appeal.

7. In *Lazard Bros & Co Midland Bank Ltd* [1933] AC 289, Lord Wright said the following at 296:

> *"I shall deal first with question (2) which is most important and is decisive, since it is clear law, scarcely needing any express authority, that a judgment must be set aside and declared a nullity by the Court in the exercise of its inherent jurisdiction if and as soon as it appears to the Court that the person named as the judgment debtor was at all material times at the date of writ and subsequently non-existent: such a case is a fortiori than the case which Lord Parker referred to in Daimler Co. v. Continental Tyre Co., 1916 2 A.C. 307. There the directors being all alien enemies could not give a retainer. Lord Parker said, "But when the Court in the course of an action becomes aware that the plaintiff is incapable of giving any retainer at all, it ought not to allow the action to proceed. In such a case the plaintiff cannot be before the Court." In the present case if the defendants cannot be before the Court because there is in law no such person, I think by parity of reasoning the Court must refuse to treat these proceedings as other than a nullity."*

8. Applying the same reasoning to the facts of this case, the Respondent cannot be before this tribunal because it did not exist as at the date the appeal was filed. I therefore declare these appeal proceedings to be a nullity. As a result, the appeal is dismissed.

Simon Clark
The Appointed Person
17 November 2026

Representation:
For the Appellant: Albright IP Ltd
There is no Respondent