

O/0108/25

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00003919326

BY SALON CONSULTANTS LIMITED

TO REGISTER THE TRADE MARK:

Collective Hairdressing

IN CLASSES 3, 35 AND 44

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NO. 441562

BY HAIR BY THE COLLECTIVE LIMITED

BACKGROUND AND PLEADINGS

1. On 6 June 2023, Salon Consultants Limited (“the applicant”) applied to register the trade mark shown on the cover page of this decision in the UK. The application was published for opposition purposes on 23 June 2023.

2. The applicant seeks registration for the following goods and services:

Class 3 Hairdressing preparations; Hairstyling serums; Hair cosmetics; Hairstyling masks; Hair grooming preparations; Hair colouring; Hair styling lotions; Mousses [toilettries] for use in styling the hair; Beauty preparations for the hair; Colouring lotions for the hair; Hair tonics [for cosmetic use]; Hair styling waxes; Hair styling preparations; Colour cosmetics for children; Cosmetic hair dressing preparations; Nail cosmetics; Hair styling gel; Hair colourants; Colour cosmetics; Hair colouring preparations; Styling paste for hair; Hair shampoo; Hair styling spray; Cosmetic preparations for the hair and scalp; Styling sprays for the hair; Beauty care cosmetics; Beauty lotions; Beauty serums; Facial beauty masks; Hair care lotions [for cosmetic use]; Cosmetics for the use on the hair; Beauty creams for body care; Hair care creams [for cosmetic use]; Cosmetic hair lotions; Beauty creams; Shampoos for human hair; Hair tonic [for cosmetic use]; Beauty soap; Beauty gels; Hair care lotions; Beauty tonics for application to the face; Hair lighteners; Hair shampoos; Hair moisturizers; Natural cosmetics; Hair care serums; Hair care creams; Hair lotions; Beauty masks; Masks (Beauty -); Hair oils; Distilled oils for beauty care; Hair balm; Hair rinses [for cosmetic use]; Hair styling gels; Styling gels for the hair; Beauty milk; Hair care masks; Hair moisturisers; Hair lotion; Hair serums; Hair color; Hair care serum; Hair balms; Hair conditioner; Beauty tonics for application to the body; Hair creams; Hair preservation treatments for cosmetic use; Hair relaxers; Hair cream; Cosmetic hair care preparations; Hair texturizers; Hair oil; Hair protection lotions; Beauty milks; Body and facial creams [cosmetics].

Class 35 Retail services in relation to hair products; Online retail store services relating to cosmetic and beauty products.

Class 44 Hairdressing; Salons (Hairdressing -); Hairdressing salons; Hairdressing salon services; Salon services (Hairdressing -); Hairdressing services; Hair dressing salon services; Hair salon services; Services of a hair and beauty salon; Hair salon services for women; Hair salon services for children; Hair salon services for men; Beautician services; Salon services (Beauty -); Beauty salon services; Beauty salons for wig cutting ; Hair perming services; Nail salon services; Beauticians (Services of -); Hair colouring services; Hair braiding services; Hair styling services; Barber services; Services of a barber; Beauty salons; Salons (Beauty -); Hair straightening services; Hair dyeing services ; Haircare services; Hair salon services for military service members; Barber shop services; Eyelash perming services; Hair cutting services; Hair weaving services; Cosmetician services; Hair curling services; Hair tinting services; Hair styling; Skin care salon services; Cosmetic make-up services; Manicuring services; Make-up services; Hair coloring services; Shampooing of the hair; Beauty spa services; Manicure services; Barber shops; Services of a make-up artist ; Hair treatment services; Hair highlighting services; Cosmetic treatment for the hair; Manicure and pedicure services; Eyebrow dyeing services; Hair restoration services; Services for the care of the hair; Hair care services; Hair cutting; Eyelash dyeing services.

3. The application was opposed in full by HAIR BY THE COLLECTIVE LIMITED (“the opponent”) on 26 June 2023 based upon sections 5(2)(b) and 5(3) of the Trade Marks Act (“the Act”), relying upon the following trade mark:

THE COLLECTIVE

UK registration no. UK00003177088

Filing date 28 July 2016; Registration date 21 October 2016.

Relying upon all of the services for which it is registered, namely:

Class 44 Consultancy services for hair and hairdressing; Hairdressing services.

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

5. Under section 5(3), the opponent claims that they have used their mark since 2016, and they are an “internationally renowned hairdressing brand”, and that use of the applicant’s mark would take unfair advantage of their international reputation for hairdressing. The opponent claims that the difference between the marks is the use of the word “HAIRDRESSING” which is merely descriptive of the services and as a result there would be a likelihood of confusion.¹ The opponent also claims that they “pride themselves” on their reputation, and that if the applicant “causes customer dissatisfaction”, their brand “may also be tarnished”.

6. The applicant filed a counterstatement denying the claims made and put the opponent to proof of use.

7. The opponent and applicant are unrepresented. Neither party requested a hearing or filed submissions in lieu, but both parties filed evidence in chief. This decision is taken following a careful perusal of the papers.

RELEVANCE OF EU LAW

8. 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.

¹ Whilst a “likelihood of confusion” is only assessed under section 5(2), I note that this is the exact wording referred to by the opponent under question 6 of Section B of their Form TM7.

EVIDENCE AND PRELIMINARY ISSUE

9. The opponent's evidence consists of a statement of use by Karen Lambert dated 21 December 2023. Ms Lambert is the Director of the opponent, and her statement is accompanied by 9 exhibits. Ms Lambert's evidence has been filed to show use of the opponent's earlier mark.

10. The applicant's evidence consists of the witness statement of Paul Clayton dated 26 February 2024. Mr Clayton's statement is accompanied by 9 exhibits (CH_1 – CH_9). Mr Clayton's evidence has been filed to show how the applicant's mark is used in practice, and the witness statement comments on the scope of the applicant's services. Nonetheless, how the applicant's services and mark are used in practice is not relevant to my assessment. If use of the opponent's earlier mark is established, I have to carry out a notional assessment based upon the specifications before me (without limiting my considerations to the segment of the market in which the applicant has so far chosen to trade) and all the circumstances in which the mark applied for might be used if it were registered.²

DECISION

Section 5(2)(b)

11. Section 5(2)(b) reads as follows:

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

(a)...

(b) it is similar to an **earlier trade mark** and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected

² *O2 Holdings Limited & Anor v Hutchison 3G UK Limited*, Case C-533/06, paragraph 66.

there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark.”

12. The opponent’s mark qualifies as an earlier mark in accordance with section 6(1)(a) of the Act as its filing date is earlier than the filing date of the applicant’s mark.

13. As the opponent’s mark had completed its registration process more than five years before the filing date of the mark in issue, it is subject to the proof of use provisions pursuant to section 6A of the Act.

Proof of use

14. I will begin by assessing whether there has been genuine use of the earlier marks. The relevant statutory provisions are as follows:

15. Section 6A of the Act states:

“(1) This section applies where

(a) an application for registration of a trade mark has been published,

(b) there is an earlier trade mark of a kind falling within section 6(1)(a),
(aa) or (ba) in relation to which the conditions set out in section 5(1),
(2) or (3) obtain, and

(c) the registration procedure for the earlier trade mark was completed
before the start of the relevant period.

(1A) In this section “the relevant period” means the period of 5 years ending with the date of the application for registration mentioned in subsection (1)(a) or (where applicable) the date of the priority claimed for that application.

(2) In opposition proceedings, the registrar shall not refuse to register the trade mark by reason of the earlier trade mark unless the use conditions are met.

(3) The use conditions are met if –

(a) within the relevant period the earlier trade mark has been put to genuine use in the United Kingdom by the proprietor or with his consent in relation to the goods or services for which it is registered, or

(b) the earlier trade mark has not been so used, but there are proper reasons for non- use.

(4) For these purposes –

(a) use of a trade mark includes use in a form (the “variant form”) differing in elements which do not alter the distinctive character of the mark in the form in which it was registered (regardless of whether or not the trade mark in the variant form is also registered in the name of the proprietor), and

(b) use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.

(5)-(5A) [Repealed]

(6) Where an earlier trade mark satisfies the use conditions in respect of some only of the goods or services for which it is registered, it shall be treated for the purposes of this section as if it were registered only in respect of those goods or services.”

16. Pursuant to section 6A of the Act, the relevant period for assessing whether there has been genuine use of the earlier mark is the five years ending on the filing date of the applicant’s mark, i.e. 7 June 2018 to 6 June 2023.

17. In *easyGroup Ltd v Nuclei Ltd & Ors* [2023] EWCA Civ 1247, Arnold LJ summarised the law relating to genuine use as follows:

“105. The principles applicable to determining whether there has been genuine use of a trade mark have been considered by the CJEU in a considerable number of cases, the principal decisions being Case C-40/01 *Ansul BV v Ajax Brandbeveiliging BV* [2003] ECR I-2439, Case C-259/02 *La Mer Technology Inc v Laboratories Goemar SA* [2004] ECR I-1159, Case C-416/04 *P Sunrider Corp v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [2006] ECR I-4237, Case C-442/07 *Verein Radetsky-Order v Bundervsvereinigung Kamaradschaft 'Feldmarschall Radetsky'* [2008] ECR I-9223, Case C-495/07 *Silberquelle GmbH v Maselli-Strickmode GmbH* [2009] ECR I-2759, Case C-149/11 *Leno Merken BV v Hagelkruis Beheer BV* [EU:C:2012:816], Case C-609/11 *Centrotherm Systemtechnik GmbH v Centrotherm Clean Solutions GmbH & Co KG* [EU:C:2013:592], Case C-141/13 *P Reber Holding & Co KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [EU:C:2014:2089], Case C-689/15 *W.F. Gözze Frottierweberei GmbH v Verein Bremer Baumwollbörse* [EU:C:2017:434] and Joined Cases C-720/18 and C-721/18 *Ferrari SpA v DU* [EU:C:2020:854].

106. Ignoring issues which do not arise in the present case, such as use in relation to spare parts or second-hand goods and use in relation to a sub-category of goods or services, the principles may be summarised as follows:

(1) Genuine use means actual use of the trade mark by the proprietor or by a third party with authority to use the mark: *Ansul* at [35] and [37].

(2) The use must be more than merely token, that is to say, serving solely to preserve the rights conferred by the registration of the mark: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Centrotherm* at [71]; *Leno* at [29]; *Ferrari* at [32].

(3) The use must be consistent with the essential function of a trade mark, which is to guarantee the identity of the origin of the goods or services to the consumer or end user by enabling him to distinguish the goods or services from others

which have another origin: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Silberquelle* at [17]; *Centrotherm* at [71]; *Leno* at [29]; *Gözze* at [37], [40]; *Ferrari* at [32].

(4) Use of the mark must relate to goods or services which are already marketed or which are about to be marketed and for which preparations to secure customers are under way, particularly in the form of advertising campaigns: *Ansul* at [37]. Internal use by the proprietor does not suffice: *Ansul* at [37]; *Verein* at [14]. Nor does the distribution of promotional items as a reward for the purchase of other goods and to encourage the sale of the latter: *Silberquelle* at [20]-[21]. But use by a non-profit making association can constitute genuine use: *Verein* at [16]-[23].

(5) The use must be by way of real commercial exploitation of the mark on the market for the relevant goods or services, that is to say, use in accordance with the commercial *raison d'être* of the mark, which is to create or preserve an outlet for the goods or services that bear the mark: *Ansul* at [37]-[38]; *Verein* at [14]; *Silberquelle* at [18]; *Centrotherm* at [71].

(6) All the relevant facts and circumstances must be taken into account in determining whether there is real commercial exploitation of the mark, including: (a) whether such use is viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods and services in question; (b) the nature of the goods or services; (c) the characteristics of the market concerned; (d) the scale and frequency of use of the mark; (e) whether the mark is used for the purpose of marketing all the goods and services covered by the mark or just some of them; (f) the evidence that the proprietor is able to provide; and (g) the territorial extent of the use: *Ansul* at [38] and [39]; *La Mer* at [22]-[23]; *Sunrider* at [70]-[71], [76]; *Centrotherm* at [72]-[76]; *Reber* at [29], [32]-[34]; *Leno* at [29]-[30], [56]; *Ferrari* at [33].

(7) Use of the mark need not always be quantitatively significant for it to be deemed genuine. Even minimal use may qualify as genuine use if it is deemed

to be justified in the economic sector concerned for the purpose of creating or preserving market share for the relevant goods or services. For example, use of the mark by a single client which imports the relevant goods can be sufficient to demonstrate that such use is genuine, if it appears that the import operation has a genuine commercial justification for the proprietor. Thus there is no *de minimis* rule: *Ansul* at [39]; *La Mer* at [21], [24] and [25]; *Sunrider* at [72]; *Leno* at [55].

(8) It is not the case that every proven commercial use of the mark may automatically be deemed to constitute genuine use: *Reber* at [32].”

Evidence of use

18. I note the following from the opponent’s evidence:

- a) Ms Lambert states that its mark is used throughout the UK, for hairdressing and consultancy for hairdressing, and that they have a salon based in London with their hairdressers “attending shoots around the world (e.g. fashion catwalks).”
- b) **Exhibit 1** contains the following undated price list:



- c) **Exhibit 2** contains the following photo of the opponent’s shop signage, which is dated December 2023:



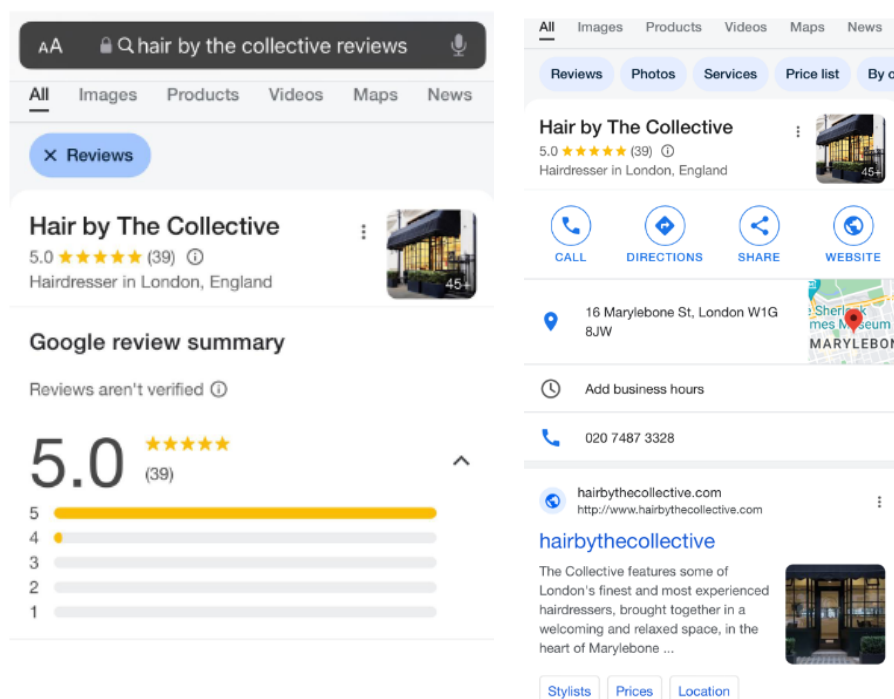
- d) **Exhibit 3** contains screenshots from a Grazia article called “The 15 Best Afro Hair Salons In London 2023” dated 13 November 2023. It lists “The Collective” as the Best For Afro Cuts and Reshaping, stating that they are a “modern, buzzy salon in Central London which has an innovative approach to hair styling”, which hosts “independent stylists with their own chairs”, including Subrina Kidd who is The Collective’s “resident textured hair expert”.
- e) **Exhibit 4** contains a screenshot from a Vanity Fair Article called “Subrina Kidd at The Collective”. Whilst I note it is undated, it refers to Subrina Kidd being a highly skilled stylist, who is an expert in “getting your hair to its optimum health”.
- f) **Exhibit 5** contains the following screenshot from a Vanity Fair article called “Mane Changers: The London Haircare Address Book” dated 7 November 2018:



- g) There is no other evidence (narrative or exhibited) to explain why the above screenshot has been submitted into the proceedings.
- h) **Exhibit 6** contains screenshots of a tatler.com article called “The best hair salons in London” dated 3 March 2023 whereby “The Collective” is listed as being based in Marylebone Street.
- i) **Exhibit 7** contains the following undated photo of the opponent’s business cards:



- j) **Exhibit 8** contains the following undated google screenshots:



- k) Lastly, **exhibit 9** contains the opponent's "balance sheet as at 31 March 2022".
I note that it contains the following figures:

HAIR BY THE COLLECTIVE LIMITED		Registered Number 08927761	
Micro-entity Balance Sheet as at 31 March 2022			
	Notes	2022	2021
		£	£
Fixed Assets		11,623	11,112
Current Assets		85,749	86,456
Creditors: amounts falling due within one year		(9,775)	(9,227)
Net current assets (liabilities)		<u>75,974</u>	<u>77,229</u>
Total assets less current liabilities		<u>87,597</u>	<u>88,341</u>
Creditors: amounts falling due after more than one year		(21,250)	(25,000)
Accruals and deferred income		(625)	(575)
Total net assets (liabilities)		<u>65,722</u>	<u>62,766</u>
Capital and reserves		<u>65,722</u>	<u>62,766</u>

Assessment of genuine use and fair specification

19. As far as the form of the mark is concerned, I am satisfied that the mark has been used as registered in the article evidence. For the sake of completeness, the evidence above also shows "The Collective" presented in a capitalised typeface, with the letter "C" circled. However, the stylisation is very minimal and does not alter the distinctive character of the mark.³ Therefore it is acceptable variant use.

20. As I have found the variant mark used in the evidence to be acceptable, I will now consider whether the evidence shows that the earlier mark has been genuinely used. An assessment of genuine use is a global assessment, which includes looking at the evidential picture as a whole, not whether each individual piece of evidence shows use by itself.⁴ As indicated in the case law cited above, use does not need to be quantitatively significant in order to be genuine. The assessment must take into account a number of factors in order to ascertain whether there has been real commercial exploitation of the mark which can be regarded as "warranted in the economic sector

³ *Dreamersclub Ltd v KTS Group Ltd*, BL O/091/19

⁴ *New Yorker SHK Jeans GmbH & Co KG v OHIM*, T-415/09

concerned to maintain or create a share in the market for the goods or services protected by the mark”.

21. In *Awareness Limited v Plymouth City Council*, Case BL O/236/13, Mr Daniel Alexander Q.C. as the Appointed Person stated that:

“22. The burden lies on the registered proprietor to prove use..... However, it is not strictly necessary to exhibit any particular kind of documentation, but if it is likely that such material would exist and little or none is provided, a tribunal will be justified in rejecting the evidence as insufficiently solid. That is all the more so since the nature and extent of use is likely to be particularly well known to the proprietor itself. A tribunal is entitled to be sceptical of a case of use if, notwithstanding the ease with which it could have been convincingly demonstrated, the material actually provided is inconclusive. By the time the tribunal (which in many cases will be the Hearing Officer in the first instance) comes to take its final decision, the evidence must be sufficiently solid and specific to enable the evaluation of the scope of protection to which the proprietor is legitimately entitled to be properly and fairly undertaken, having regard to the interests of the proprietor, the opponent and, it should be said, the public.”

22. In *Dosenbach-Ochsner Ag Schuhe Und Sport v Continental Shelf 128 Ltd*, Case BL O/404/13, Mr Geoffrey Hobbs Q.C. as the Appointed Person stated that:

“21. The assessment of a witness statement for probative value necessarily focuses upon its sufficiency for the purpose of satisfying the decision taker with regard to whatever it is that falls to be determined, on the balance of probabilities, in the particular context of the case at hand. As Mann J. observed in *Matsushita Electric Industrial Co. v. Comptroller- General of Patents* [2008] EWHC 2071 (Pat); [2008] R.P.C. 35:

[24] As I have said, the act of being satisfied is a matter of judgment. Forming a judgment requires the weighing of evidence and other factors. The evidence required in any particular case where satisfaction is

required depends on the nature of the inquiry and the nature and purpose of the decision which is to be made. For example, where a tribunal has to be satisfied as to the age of a person, it may sometimes be sufficient for that person to assert in a form or otherwise what his or her age is, or what their date of birth is; in others, more formal proof in the form of, for example, a birth certificate will be required. It all depends who is asking the question, why they are asking the question, and what is going to be done with the answer when it is given. There can be no universal rule as to what level of evidence has to be provided in order to satisfy a decision-making body about that of which that body has to be satisfied.

22. When it comes to proof of use for the purpose of determining the extent (if any) to which the protection conferred by registration of a trade mark can legitimately be maintained, the decision taker must form a view as to what the evidence does and just as importantly what it does not '*show*' (per Section 100 of the Act) with regard to the actuality of use in relation to goods or services covered by the registration. The evidence in question can properly be assessed for sufficiency (or the lack of it) by reference to the specificity (or lack of it) with which it addresses the actuality of use."

23. The case law summarised in the passage from *easygroup* quoted above makes it clear that real commercial exploitation of the trade mark must be shown. Even in a case where the use is not sham, i.e. it is not use engineered solely to preserve the trade mark registration, the use must be more than trivial if it is to be considered genuine. An example of this can be seen in *Memory Opticians Ltd's Application*, BL O/528/15, where the Appointed Person, Professor Ruth Annand, upheld the decision to revoke the protection of the mark STRADA on the grounds that it had not been put to genuine use within the requisite 5-year period. There had in fact been sales of goods bearing the mark, but these were very low in volume (circa 40 pairs of spectacles per year) and all the sales were local, from 3 branches of an optician. There was no advertising of the goods under the mark, and the evidence indicated that they were only displayed in-store on occasion. The mark was said to have been applied to the goods via a sticker applied to the arms of a dummy lens. This level of use was held to

be insufficient to create or maintain a market under the mark. Consequently, it was not genuine use.

24. Where proof of use is required, it is typical to see evidence such as turnover figures and invoices showing the sale of its services to customers. I have not been provided with any of this evidence, which is plainly information which should have been available and relatively easy to provide.

25. It is not necessarily fatal to the assertion of genuine use that there is no such evidence, if other material filed by the opponent is sufficient to show that there has been a real attempt to exploit the mark in the sector. However, there is very little evidence of other activity in this case.

26. It is clear from the evidence provided that The Collective has been referred to within Grazia and Tatler articles, as either one of the best hairdressers in London, or one of the best salons for Afro Cuts and reshaping in London, within the relevant period. I find that this is the opponent's strongest evidence in establishing use of its mark. However, whilst I bear in mind that Grazia and Tatler may be reputable magazines, I have not been provided with any supporting evidence from the opponent as to the readership of these publications in the UK. Therefore I am unable to determine how many consumers across the UK would have been exposed to these articles. Moreover, whilst I have also been provided with 2 Vanity Fair articles, I note that one makes no reference to The Collective, and the other does not provide any information about The Collective itself, apart from stating that Subrina Kidd works there.

27. The above articles, and the evidence as a whole, confirms that The Collective is a singular hairdresser salon based in London (Marylebone Street). There is no evidence of trading in other geographical areas, for example, evidence confirming that there are other UK salon locations for The Collective. Therefore, I note that the territorial extent of use of the mark is limited, as it can only be pinned to one salon based in London. Whilst I bear in mind that the opponent has provided a google search screenshot to show that The Collective has a website, which could therefore reach consumers beyond the geographical area of London, firstly, the screenshot is undated and

therefore I am unable to determine whether this website was accessible during the relevant period, and secondly, I do not have any evidence of the website itself and how it was presented. Whilst the google screenshot also shows that The Collective has a 5 star rating from 39 reviews made on google, which I note is a very limited number of reviews, and none of them are actually provided, again, I am unable to determine the date of when the reviews were made and if they fell within the relevant period.

28. I also bear in mind that I have not been provided with the number of customers that the opponent had during the relevant period, or any information on its customers, including whether they had come from beyond the geographical area in which the shop is based. Moreover, I have not been provided with a total number of sales made, or a breakdown of these sales, in accordance with the services contained within the price list, which is also undated. The shop signage photo is dated after the relevant period, and the photo of the opponent's business cards are undated. I have not been provided with any supporting narrative evidence as to whether the business cards were distributed throughout the relevant period and how many UK customers would have been exposed to them.

29. Whilst the opponent has provided a balance sheet dated March 2022, I find that this is not useful as it simply lists their fixed assets and their current assets for the years 2021 and 2022. It does not list any turnover figures, and, therefore, I am unable to determine how much money the opponent made from its services during the relevant period. Lastly, the opponent has not provided any advertising figures, or dated examples of their own advertising. Therefore, taking the evidence as a whole, my view is that it does not establish that there has been genuine use of the opponent's earlier mark for any of its services.

30. The consequence of my finding on use is that UK00003177088 may not be relied upon under section 5(2)(b) in these proceedings.

Section 5(3)

31. Section 5(3) of the Act states:

“5(3) A trade mark which –

(a) is identical with or similar to an **earlier trade mark**, shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the United Kingdom (or, in the case of a European Union trade mark or international trade mark (EC), in the European Union) and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier trade mark.”

32. Section 5(3) also relies on the opponent having an earlier trade mark. However, as noted above, the opponent has failed to establish use of its earlier mark, and therefore UK00003177088 may not be relied upon under section 5(3) either.

33. As there is no other basis for the opposition, the action must fail under both grounds.

CONCLUSION

34. The opposition is unsuccessful, and the application may proceed to registration.

COSTS

35. The applicant has been successful and would normally be entitled to a contribution towards their costs.

36. However, as the applicant is unrepresented, at the conclusion of the evidence rounds the tribunal wrote to the applicant and invited them to indicate whether they intended to make a request for an award of costs. The applicant was informed that, if so, they should complete a Pro Forma, providing details of their actual costs and accurate estimates of the amount of time spent on various activities associated with the proceedings. They were informed that “if the pro-forma is not completed and returned, costs, other than official fees arising from the action (excluding extensions of time) may not be awarded”.

37. The applicant did not file a completed Pro Forma and paid no official fees. That being the case, I make no award of costs in this matter.

Dated this 7th day of February 2025

L FAYTER

For the Registrar