

O/0708/26

TRADE MARKS ACT 1994

CONSOLIDATED PROCEEDINGS

IN THE MATTER OF APPLICATION NOS.

UK00003971735 AND UK00003971737

IN THE NAME OF

EQT PARTNERS LIMITED

TO REGISTER THE FOLLOWING TRADE MARKS:

STOREX

IN CLASSES 6, 9, 16, 20, 35 AND 39

AND

STOREX SELF STORAGE

IN CLASSES 35 AND 39

IN THE MATTER OF OPPOSITIONS THERETO

UNDER NOS. OP000447114 AND OP000447115

BY

STOREX AB

BACKGROUND AND PLEADINGS

1. On 25 October 2023, EQT Exeter Advisors UK Limited (“the applicant”) applied to register the trade marks shown on the cover page of this decision in the UK. The applications were accepted and published in the Trade Marks Journal on 26 January 2024.
2. On 1 January 2025, EQT Partners Limited became the owners of the applied for marks and is hereafter referred to as “the applicant”.
3. The following goods and services are applied for under the “STOREX” mark:

Class 6 Structures and transportable buildings of metal; relocatable buildings of metal; small items of metal hardware; padlocks; locks; keys; metal containers; metal containers for storage; metal containers for transport; vaults; safes; parts and fittings for all of the aforementioned goods.

Class 9 Mobile apps; software applications; computer software; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; recorded and downloadable media; access control devices; electronic padlocks; parts and fittings for all of the aforementioned goods.

Class 16 Packaging materials; packaging; protective packaging; protective containers; articles of cardboard, paper or plastic for packaging; plastic materials for packaging; plastic sheets, films and bags for wrapping and packaging; packaging for maintaining product integrity in transit or in storage; partitions for packaging; containers, boxes, cartons, cases, tubes, pouches, sleeves, bags and sheets for packaging; cardboard packaging; corrugated packaging; rigid packaging; packaging materials made from sustainable fibres; fibreboard boxes; fibreboard packaging; recycled packaging; recyclable packaging; films for packaging;

printed packaging; printed matter; bubble wrap; bubble packs for wrapping or packaging; cardboard tubes; packing tissue; plastic bags; packing tape; adhesive packaging tape; adhesive tapes for use in packaging and wrapping; adhesive tapes for office or household use; stationery; pens; marker pens; printed publications; photographs; office requisites; adhesives for packaging or household purposes; instructional and teaching materials; parts and fittings for all of the aforementioned goods.

Class 20 Storage units; storage racks; containers for storage or transport; furniture; parts and fittings for all of the aforementioned goods.

Class 35 Retail services relating to structures and transportable buildings of metal, relocatable buildings of metal, small items of metal hardware, padlocks, locks, keys, metal containers for storage, metal containers for transport, vaults, mobile apps, software applications, computer software, apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data, recorded and downloadable media, access control devices, electronic padlocks, packaging materials, packaging, protective packaging, protective containers, articles of cardboard, paper or plastic for packaging, plastic materials for packaging, plastic sheets, films and bags for wrapping and packaging, packaging for maintaining product integrity in transit or in storage, partitions for packaging, containers, boxes, cartons, cases, tubes, pouches, sleeves, bags and sheets for packaging, cardboard packaging, corrugated packaging, rigid packaging, packaging materials made from sustainable fibres, fibreboard boxes, fibreboard packaging, recycled packaging, recyclable packaging, films for packaging, printed packaging, printed matter, bubble wrap, bubble packs for wrapping or packaging, cardboard tubes, packing tissue, plastic bags, packing tape, adhesive packaging tape, adhesive tapes for use in packaging and wrapping, adhesive tapes for office or household use, stationery, pens,

marker pens, printed publications, photographs, office requisites, adhesives for packaging or household purposes, instructional and teaching materials, structures and transportable buildings, not of metal, relocatable buildings, not of metal, storage units, storage racks, containers for storage or transport, containers, furniture, and of parts and fittings for all of the aforementioned goods; business management, organization and administration; office functions; information, advisory and consultancy services in relation to all of the aforementioned services.

Class 39 Storage of goods; secure storage of goods; providing self-storage facilities for others; providing secure self-storage facilities for others; rental services relating to storage, transportation and vehicles; rental of space, rooms, structures, units and containers for storage; rental of secure space, rooms, structures, units and containers for storage; warehouse storage; furniture storage; arranging the storage of goods; packaging services; packaging of goods; packaging of goods for storage; secure packaging of goods for storage; packaging of goods for transportation; secure packaging of goods for transportation; transport; transportation of goods; rental of space, structures, units and containers for transportation; travel arrangement; information, advisory and consultancy services in relation to all of the aforementioned services.

4. The “STOREX SELF STORAGE” mark is applied for only for the above-listed Class 35 and Class 39 services.
5. Storex AB (“the opponent”) opposes the “STOREX” application under section 5(2)(a) of the Trade Marks Act 1994 (“the Act”) and opposes the “STOREX SELF STORAGE” application under section 5(2)(b) of the Act, the cases having been consolidated on 11 November 2024. The opponent relies upon the following mark:

STOREX

UK registration no. UK00911689288¹ (“the earlier mark”)

Filing date: 26 March 2013

Date of registration: 23 August 2013

6. The opponent opposes all of the goods and services in both applications and relies upon the following Class 39 services:

Class 39	Transport; Packaging and storage of goods; Transportation information; Freight brokerage, unloading of freight; Storage information; Logistics in the transport sector; Collection, transport and delivery of goods; Tracking services; Warehouse management, Rental of storage containers; Letter, freight and express services; Rental of warehouse space; Logistics consultancy; Drawing up transit documents; Database services in the field of the transport, packaging and storage of goods; Franking of goods; Organisation and handling of returned consignments (returns management); logistic services via a computer network and/or a web site; Online logistic services.
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7. The applicant filed Form TM8s denying the opponent's claims and requested proof of use of the opponent's mark.
8. The opponent filed evidence with the intention of proving use of its mark.
9. The oppositions were originally due to be the subject of an oral hearing, but the parties subsequently filed submissions in lieu of attending the hearing and this case is decided on the papers before me.

¹ The mark is a “comparable” mark whereby a party who would have relied on a registered EUTM is instead able to rely on the comparable UK mark deriving from such rights. UK comparable marks were created automatically on IP Completion Day, with the naming convention for comparable marks derived from EUTMs being that the number is the last 8 digits of the EUTM prefixed with UK009. See Tribunal Practice Notice 2 of 2020 for further information.

10. The applicant is represented by Murgitroyd & Company. The opponent is represented by Daniel Dimov.

11. The provisions of the Act relied upon in these proceedings are assimilated law, as they are derived from EU law. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 (as amended by Schedule 2 of the Retained EU Law (Revocation and Reform) Act 2023) requires tribunals applying assimilated law to follow assimilated EU case law. That is why this decision refers to decisions of the EU courts which predate the UK's withdrawal from the EU.

Evidence

12. The opponent filed a witness statement from Daniel Nordgren, a professional translator, in support of having translated exhibits from Swedish into English, signed and dated 5 February 2025. The original exhibits in question along with their translated versions were filed as Exhibit A, numbers 14 to 18.

13. The opponent also filed a witness statement from Freddie Gunnarsson, a director of the opponent attesting to being "fluent in English and Swedish" in support of having translated exhibits from Swedish into English, signed and dated 3 February 2025. The original exhibits in question along with their translated versions were filed as Exhibit B, numbers 1 to 13 and 19 to 26.

DECISION

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

"5(2) A trade mark shall not be registered if because—

(a)...

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

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

15. Section 5A of the Act is as follows:

“5A 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.”

16. Given its filing date, the trade mark upon which the opponent relies qualifies as an earlier trade mark for the purposes of section 6 of the Act.

Proof of use

17. The earlier mark had been registered for more than five years at the filing date of the applications and so the proof of use provisions apply.

18. The proof of use provisions are set out in section 6A of the Act, the relevant parts of which state:

“(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), (b) 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) 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.

...

19. 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-year period 26 October 2018 to 25 October 2023.
20. It should be noted that because the earlier mark is a comparable mark, Tribunal Practice Notice 2 of 2020 applies in that: “Where all or part of the relevant five-year period for genuine use under sections 6A, 46(1)(a) or (b), or 47 falls before IP Completion Day, evidence of use of the corresponding EUTM in the EU in that part of the relevant period before IP Completion Day will be taken into account in determining whether there has been genuine use of the comparable trade mark. For that part of the relevant period, for the purposes of the genuine use assessment, the UK will be taken to include the EU.”
21. Consequently, I can take account of evidence of use in the EU up to and including IP Completion Day - 31 December 2020.
22. 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 Marken 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 subcategory 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]."

23. Arnold LJ followed his summary of the principles to be applied when assessing proof of use with the following paragraph:

“107. The trade mark proprietor bears the burden of proving genuine use of its trade mark: see section 100 of the 1994 Act and *Ferrari* at [73]-[83]. The General Court of the European Union has repeatedly held that genuine use of a trade mark cannot be proved by means of probabilities or suppositions, but must be demonstrated by solid and objective evidence of effective and sufficient use of the trade mark on the market concerned: see e.g. Case T-78/19 *Lidl Stiftung & Co KG v European Union Intellectual Property Office* [EU:C:2020:166] at [25]. It has also repeatedly held that the smaller the commercial volume of the exploitation of the mark, the more necessary it is for the proprietor to produce additional evidence to dispel any doubts as to the genuineness of its use: see e.g. *Lidl* at [33]. In *Awareness Ltd v Plymouth City Council* [2013] RPC 24 Daniel Alexander QC sitting as the Appointed Person said:

“19. For the tribunal to determine in relation to what goods or services there has been genuine use of a mark during the relevant period, it should be provided with clear, precise, detailed and well-supported evidence as to the nature of that use during the period in question from a person properly qualified to know.

...

22. ... 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 ... 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.””

The applicant's arguments

24. The applicant says the following in its submissions in lieu:

“9. In addition, despite being invited to provide evidence of use of the Opponent's Earlier Right, the Statement of Freddie Gunnarson dated 13 January 2025 relies on a .se website, in the Swedish language, attaches invoices issued in Swedish, in which the services provided to the consumer are listed in Swedish, invoiced to addresses in Sweden and Finland, or for services provided to in Sweden, and clearly do not adequately demonstrate evidence of the supply of any of the services of Class 39 of the Opponent's Earlier Right to the UK consumer. It is clear from the invoices and the Opponent's .se website prints (once translated as no translation was provided) that the Opponent provides “Tredjepartslogistik” services, which translates as “third party logistic services”, namely the transportation of goods along a supply chain.

10. The Opponent has not provided evidence of use of the Opponent's Earlier Right in the UK and so the Opposition should be dismissed on that count.”

Form of the mark

25. The mark appears occasionally in the evidence from the opponent's website as the plain word “Storex”, i.e. as registered, but also in the form below:



26. The mark also appears in this form in the opponent's evidence of invoices:



27. I am mindful of *Lactalis McLelland Limited v Arla Foods AMBA*, BL O/265/22, in which Phillip Johnson, sitting as the Appointed Person, considered the correct approach to the test under s. 46(2). He said:

“13. [...] While the law has developed since *Nirvana* [BL O/262/06], the recent case law still requires a comparison of the marks to identify elements of the mark added (or subtracted) which have led to the alteration of the mark (that is, the differences) (see for instance, T-598/18 *Grupo Textil Brownie v EU*IPO*, EU:T:2020:22, [63 and 64]).

14. The courts, and particularly the General Court, have developed certain principles which apply to assess whether a mark is an acceptable variant and the following appear relevant to this case.

15. First, when comparing the alterations between the mark as registered and used it is clear that the alteration or omission of a non-distinctive element does not alter the distinctive character of the mark as a whole: T-146/15 *Hypen v EUIPO*, EU:T:2016:469, [30]. Secondly, where a mark contains words and a figurative element the word element will usually be more distinctive: T-171/17 *M & K v EUIPO*, EU:T:2018:683, [41]. This suggests that changes in figurative elements are usually less likely to change the distinctive character than those related to the word elements.”

28. Given the above case law, I do not consider that rendering the word “STOREX” in stencil-like text bordered by straight lines, in red or black, alters the distinctive character of the mark.

29. Further, per *Colloseum Holdings AG v Levi Strauss & Co.*, Case C-12/12, the addition of the ® symbol would not prevent the word “STOREX” from continuing

to be perceived as indicative of the origin of the services at issue. The same applies to the addition of the word “Tredjepartslogistik”. This word has not been translated by the opponent, but the applicant asserts at paragraph 9 of its submissions in lieu that it “translates as “third party logistic services”, namely the transportation of goods along a supply chain.” Although the typical consumer would not know the precise meaning of the word as a whole, they would recognise the presence of “logistik” as something to do with logistics and hence they would perceive the word as descriptive of the company in question’s services. This would not prevent the word “STOREX” from continuing to be perceived as indicative of the origin of the services at issue.

30. The above forms of the mark constitute acceptable variant use.

The opponent’s evidence of use

31. 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.²

32. I remind myself that the relevant period for the earlier mark is the five-year period 26 October 2018 to 25 October 2023 and that I can take account of evidence of use in the EU up to and including IP Completion Day - 31 December 2020.

33. The opponent has not filed a narrative witness statement for the exhibits that might have stated the overall activity that the opponent had engaged in under the mark during the relevant period, and which could have provided a context for the exhibits. The two witness statements that have been submitted relate solely to the translation of the exhibits from Swedish to English.

34. The exhibits can be divided into three parts. First, there is company information regarding the opponent. Second, there is information from the opponent’s website. Third, there are 21 invoices.

² *New Yorker SHK Jeans GmbH & Co KG v OHIM*, T-415/09

35. The translated Exhibit A14 shows extracts from the pages of a company information website whereby the opponent's company had revenue of approximately 60 million Swedish krona at June 2019 (equivalent to 4,630,000 GBP), then 70 million at June 2020 (5,401,000 GBP), 100 million at June 2021 (7,716,000 GBP), 140 million at June 2022 (10,802,000 GBP), and 150,427,000 (11,607,000 GBP) at June 2023.
36. Under "Activities & purposes" in the company information, it is stated that "The company shall conduct storage and distribution for commercial purposes of trade goods and related Operation."
37. The translated Exhibits A15, A16, A17 and A18 are instances of the opponent's website generated using a wayback machine and which are from 2020, 2021, 2022 and 2023 and so they are all within the relevant period.
38. The opponent's website is storex.se. The .se signifies a Swedish website and the evidence shows that the opponent had premises in Stockholm and Gothenburg during the relevant period and provided potential customers with the relevant contact information. The website is available in Swedish and English language versions.
39. The four iterations of the website from the relevant period show that the opponent had the same scope as to the business it was in and the services it offered to potential customers, as per this example from the 2021 iteration:

"We are an independent logistics company with long experience offering logistics solutions within third-party logistics, market logistics and e-commerce. We currently have warehouses and offices in Stockholm and Gothenburg and work based on your needs and wishes.

Third-party logistics

Small or large volumes, special packaging or fast deliveries? Our services are of course adapted to your company's specific needs.

Market logistics

Let Storex keep your promotional products and marketing materials organized. We offer a Unique web- based ordering system for sales force and retailers.

Logistics Coordinator

Let our Logistics Coordinator do the work for you. You place a purchase order and we take care of the rest. A big advantage of a Logistics Coordinator is that you as a customer are kept continuously updated.

E-Commerce

Do you run an e-commerce business? Let us take care of your inventory and help you gain an overview of your product flows. At the same time, we ensure that delivery times are shortened for your customers.

Customs Warehouse

Let us store your undeclared goods without you having to pay customs duties and taxes. We also help you with export and import documents.”

40. The website also displays the logos of companies that the opponent has done business with (its “customer assignments”) but the information provided does not provide any further detail. The companies are Busnel, Bread & Boxers, Plackers, Bravida, Icebug, Unilever, Schneider Electric, Dickson, Comeon! and Linum.

41. I list below summaries of the translated invoices provided by the opponent.

Exhibit	Date	Address	Items	Total
B1	31/10/18	Peterborough, UK	Freight, Outgoing Handling, Warehouse rent, Packaging, Incoming Handling	14165
B2	30/11/18	Peterborough, UK	Freight, Outgoing Handling, Warehouse rent, Packaging, Incoming Handling	11210
B3	31/12/18	Peterborough, UK	Freight, Outgoing Handling, Warehouse rent, Packaging, Incoming Handling	16078
B4	31/01/19	Peterborough, UK	Freight, Outgoing Handling, Warehouse rent, Packaging, Incoming Handling	18675
B5	28/02/19	Peterborough, UK	Freight, Outgoing Handling, Warehouse rent, Packaging, Incoming Handling	8981
B6	31/03/19	Peterborough, UK	Freight, Outgoing Handling, Warehouse rent, Packaging, Incoming Handling	7817
B7	21/06/20	London WC2, UK	Outgoing Handling, Packaging, Freight, Management, Warehouse rent, IT Management/services	2508
B8	30/06/20	London WC2, UK	Freight, Warehouse rent, IT Management/services	1332
B9	31/07/20	London WC2, UK	Incoming Handling, Management, Warehouse rent, IT Management/services	967
B10	31/08/20	London WC2, UK	Incoming Handling, Outgoing Handling, Packaging, Freight, Management, Warehouse rent, IT Management/services	2582
B11	30/09/20	London WC2, UK	Incoming Handling, Management, Warehouse rent, IT Management/services	919
B12	31/10/20	Stamford, Lincolnshire, UK	Departure Handling, Packaging, Freight,	4466

			Insurance, Warehouse rent	
B13	31/12/20	London WC2, UK	Incoming Handling, Management, Warehouse rent, IT Management/services, Late payment interest	4188
B19	30/11/18	Stockholm	Incoming Handling, Outgoing Handling, Packaging, Freight, Harbor, Insurance, Warehouse rent	25560
B20	30/11/18	Rotterdam	Stamps, Warehouse rent, IT, Packaging, Departure Handling, Freight, Arrival Handling, Late Payment interest	30963
B21	31/01/19	Stockholm	Outgoing Handling, Packaging, Freight, Harbor, Insurance, Warehouse rent	17925
B22	31/03/19	Stockholm	Reminder fee, Incoming Handling, Outgoing Handling, Packaging, Freight, Harbor, Insurance, Warehouse rent	16702
B23	31/05/19	Stockholm	Incoming Handling, Outgoing Handling, Packaging, Freight, Insurance, Warehouse rent	20339
B24	31/10/19	Stockholm	Outgoing Handling, Packaging, Freight, Harbor, Insurance, Warehouse rent	19963
B25	30/09/20	Finland	Outgoing Handling, Freight, Warehouse rent, IT, Packaging, Incoming Handling	14830
B26	30/04/20	France	Freight, Incoming Handling, Outgoing Handling, Warehouse rent	223371

42. The invoices do not state what currency they are in, but they are assumed to be in Swedish krona which means that the smallest amount is the equivalent of 71 GBP and the largest amount is the equivalent of 17195 GBP.

Sufficient use

43. As previously stated, the evidence would have benefitted from a narrative witness statement that set out the overall activity that the opponent had engaged in under the mark during the relevant period. Further, I have been provided with no information as to marketing expenditure, nor do I know the size of the relevant market or the opponent's market share. All that being said, the opponent has provided a comprehensive sample of invoices covering the first half of the relevant period up to 31 December 2020. That date being IP Completion Day means that all the invoices, whether billed to UK companies or companies around Europe, are admissible.

44. Alongside the invoice evidence, the revenue figures offered in evidence are healthy, starting from the equivalent of £4,630,000 at June 2019 and rising to £11,607,000 by June 2023. While the opponent's premises are in Sweden and its business is built around the storage and distribution of goods within Sweden and facilitating the import to and export from that country, it is clear that it has attracted business from the EU and the UK in the first half of the relevant period. However, I have no direct evidence of the opponent having accrued any revenue under the mark from companies based in the UK in the second half of the relevant period.

45. Notwithstanding the limited evidence provided in relation to the second half of the relevant period, I have considered all of the evidence in the round. I am satisfied that it is sufficient to denote real commercial exploitation of the mark on the market in accordance with its commercial *raison d'être*, which is to create an outlet for the services that bear the mark. Hence, I consider genuine use to have been demonstrated.

Fair specification

46. Having determined that the opponent has shown use of some services under its mark, I must now set out what I consider to be a fair specification.

47. In *Euro Gida Sanayi Ve Ticaret Limited v Gima (UK) Limited*, BL O/345/10, Mr Geoffrey Hobbs Q.C. as the Appointed Person summed up the law as being:

“In the present state of the law, fair protection is to be achieved by identifying and defining not the particular examples of goods or services for which there has been genuine use but the particular categories of goods or services they should realistically be taken to exemplify. For that purpose the terminology of the resulting specification should accord with the perceptions of the average consumer of the goods or services concerned.”

48. In *Merck KGaA v Merck Sharp & Dohme Corp & Ors* [2017] EWCA Civ 1834 the Court of Appeal set out the proper approach to partial revocation (which also applies to proof of use cases), as follows:

“245. First, it is necessary to identify the goods or services in relation to which the mark has been used during the relevant period.

246. Secondly, the goods or services for which the mark is registered must be considered. If the mark is registered for a category of goods or services which is sufficiently broad that it is possible to identify within it a number of subcategories capable of being viewed independently, use of the mark in relation to one or more of the subcategories will not constitute use of the mark in relation to all of the other subcategories.

247. Thirdly, it is not possible for a proprietor to use the mark in relation to all possible variations of a product or service. So care must be taken to ensure this exercise does not result in the proprietor being stripped of protection for goods or services which, though not the same as those for which use has been proved, are not in essence different from them and cannot be distinguished from them other than in an arbitrary way.

248. Fourthly, these issues are to be considered having regard to the perception of the average consumer and the purpose and intended use of the products or services in issue. Ultimately it is the task of the tribunal to arrive

at a fair specification of goods or services having regard to the use which has been made of the mark.

249. This approach does strike an appropriate balance. It gives effect to the clear intention of the EU legislature that marks must actually be used or, if not used, be subject to revocation. [...] It is also fair to proprietors for it does not require a proprietor to prove that he has used his mark in relation to all possible variations of the goods or services covered by its registration but only those which are sufficiently distinct to constitute coherent categories or subcategories. I am also satisfied that it gives appropriate protection to the legitimate interest of a proprietor in being able in the future to extend his range of goods or services within the scope of the terms describing the goods or services for which its mark is registered.”

49. In *Property Renaissance Ltd (t/a Titanic Spa) v Stanley Dock Hotel Ltd (t/a Titanic Hotel Liverpool) & Ors* [2016] EWHC 3103 (Ch) at [47], the late Carr J pointed out that it is not the task of the court to describe the use made by the trade mark proprietor in the narrowest possible terms unless that is what the average consumer would do; for example, in *Pan World Brands v Tripp Ltd (Extreme Trade Mark)* [2008] RPC 2 it was held that use in relation to holdalls justified a registration for luggage generally.

50. The approach in *Merck* was endorsed by the Supreme Court in *SkyKick UK Ltd & Anor v Sky Ltd & Ors (Rev1)* [2024] UKSC 36:

“261. ... save that it must now be seen in light of the more recent guidance given by the CJEU in, for example: *Ferrari SpA v DU* (Joined Cases C-720/18 and C-721/18) EU:C:2020:854; [2021] Bus LR 106, at paras 36-53. There the CJEU explained, at para 40, that the essential criterion to apply for the purposes of identifying a coherent subcategory of goods or services capable of being viewed independently is their purpose and intended use.”

51. I remind myself that the opponent is reliant upon the following services:

Class 39 Transport; Packaging and storage of goods; Transportation information; Freight brokerage, unloading of freight; Storage information; Logistics in the transport sector; Collection, transport and delivery of goods; Tracking services; Warehouse management, Rental of storage containers; Letter, freight and express services; Rental of warehouse space; Logistics consultancy; Drawing up transit documents; Database services in the field of the transport, packaging and storage of goods; Franking of goods; Organisation and handling of returned consignments (returns management); logistic services via a computer network and/or a web site; Online logistic services.

52. Having reviewed the stated aims of the opponent's company from the evidence supplied, and having reviewed the activities itemised in the invoices, I see no reason to unduly disturb the opponent's specification as registered. The only changes I will make are to rule out its retention of "Transport" at large which covers the transport of people as well as goods and to modify "Transportation information" in favour of "Transportation information in the field of logistics". As such, I consider a fair specification to be:

Class 39 Packaging and storage of goods; Transportation information in the field of logistics; Freight brokerage, unloading of freight; Storage information; Logistics in the transport sector; Collection, transport and delivery of goods; Tracking services; Warehouse management, Rental of storage containers; Letter, freight and express services; Rental of warehouse space; Logistics consultancy; Drawing up transit documents; Database services in the field of the transport, packaging and storage of goods; Franking of goods; Organisation and handling of returned consignments (returns management); logistic services via a computer network and/or a web site; Online logistic services.

Section 5(2)

53. The opposition is based upon Sections 5(2)(b) of the Act, which read as follows:

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

(a) ...

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

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

54. 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 Paris 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 be dominated by one or more of its components;
- (f) however, it is also 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 great 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;
- (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 the goods and services

55. The goods and services for comparison are as below.

Opponent's services	Applicant's goods and services
	<u>Class 6</u> Structures and transportable buildings of metal; relocatable buildings of metal; small items of metal hardware; padlocks;

	locks; keys; metal containers; metal containers for storage; metal containers for transport; vaults; safes; parts and fittings for all of the aforementioned goods.
	<u>Class 9</u> Mobile apps; software applications; computer software; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; recorded and downloadable media; access control devices; electronic padlocks; parts and fittings for all of the aforementioned goods.
	<u>Class 16</u> Packaging materials; packaging; protective packaging; protective containers; articles of cardboard, paper or plastic for packaging; plastic materials for packaging; plastic sheets, films and bags for wrapping and packaging; packaging for maintaining product integrity in transit or in storage; partitions for packaging; containers, boxes, cartons, cases, tubes, pouches, sleeves, bags and sheets for packaging; cardboard packaging; corrugated packaging; rigid packaging; packaging materials made from sustainable fibres; fibreboard boxes; fibreboard packaging; recycled packaging; recyclable packaging; films for packaging; printed

	packaging; printed matter; bubble wrap; bubble packs for wrapping or packaging; cardboard tubes; packing tissue; plastic bags; packing tape; adhesive packaging tape; adhesive tapes for use in packaging and wrapping; adhesive tapes for office or household use; stationery; pens; marker pens; printed publications; photographs; office requisites; adhesives for packaging or household purposes; instructional and teaching materials; parts and fittings for all of the aforementioned goods.
	<u>Class 20</u> Storage units; storage racks; containers for storage or transport; furniture; parts and fittings for all of the aforementioned goods.
	<u>Class 35</u> Retail services relating to structures and transportable buildings of metal, relocatable buildings of metal, small items of metal hardware, padlocks, locks, keys, metal containers for storage, metal containers for transport, vaults, mobile apps, software applications, computer software, apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data, recorded and downloadable media, access control devices, electronic padlocks, packaging materials, packaging, protective

	packaging, protective containers, articles of cardboard, paper or plastic for packaging, plastic materials for packaging, plastic sheets, films and bags for wrapping and packaging, packaging for maintaining product integrity in transit or in storage, partitions for packaging, containers, boxes, cartons, cases, tubes, pouches, sleeves, bags and sheets for packaging, cardboard packaging, corrugated packaging, rigid packaging, packaging materials made from sustainable fibres, fibreboard boxes, fibreboard packaging, recycled packaging, recyclable packaging, films for packaging, printed packaging, printed matter, bubble wrap, bubble packs for wrapping or packaging, cardboard tubes, packing tissue, plastic bags, packing tape, adhesive packaging tape, adhesive tapes for use in packaging and wrapping, adhesive tapes for office or household use, stationery, pens, marker pens, printed publications, photographs, office requisites, adhesives for packaging or household purposes, instructional and teaching materials, structures and transportable buildings, not of metal, relocatable buildings, not of metal, storage units, storage racks, containers for storage or transport, containers, furniture, and of parts and fittings for all of the aforementioned goods; business
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	management, organization and administration; office functions; information, advisory and consultancy services in relation to all of the aforementioned services.
<u>Class 39</u> Packaging and storage of goods; Transportation information in the field of logistics; Freight brokerage, unloading of freight; Storage information; Logistics in the transport sector; Collection, transport and delivery of goods; Tracking services; Warehouse management, Rental of storage containers; Letter, freight and express services; Rental of warehouse space; Logistics consultancy; Drawing up transit documents; Database services in the field of the transport, packaging and storage of goods; Franking of goods; Organisation and handling of returned consignments (returns management); logistic services via a computer network and/or a web site; Online logistic services.	<u>Class 39</u> Storage of goods; secure storage of goods; providing self-storage facilities for others; providing secure self-storage facilities for others; rental services relating to storage, transportation and vehicles; rental of space, rooms, structures, units and containers for storage; rental of secure space, rooms, structures, units and containers for storage; warehouse storage; furniture storage; arranging the storage of goods; packaging services; packaging of goods; packaging of goods for storage; secure packaging of goods for storage; packaging of goods for transportation; secure packaging of goods for transportation; transport; transportation of goods; rental of space, structures, units and containers for transportation; travel arrangement; information, advisory and consultancy services in relation to all of the aforementioned services.

56. In *Gérard Meric v OHIM*, Case T-133/05, the General Court (“GC”) stated that:

“In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by trade mark application (Case T-388/00 *Institut 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”.

57. When making the comparison, all relevant factors relating to the goods and services in the specifications should be taken into account. In the judgment of the Court of Justice of the European Union (“CJEU”) in *Canon*, Case C-39/97, the court stated at paragraph 23 that:

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

58. Guidance on this issue has come from Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, where he identified the factors for assessing similarity as:

- a. The respective uses of the respective goods or services;
- b. The respective users of the respective goods or services;
- c. The physical nature of the goods or acts of service;
- d. The respective trade channels through which the goods or services reach the market;
- e. In the case of self-serve consumer items, where in practice they are respectively found or likely to be found in supermarkets and, in particular,

whether they are or are likely to be found on the same or different shelves;

- f. The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance, whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.

59. In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods. In *Boston Scientific Ltd v OHIM*, Case T-325/06, the GC stated that “complementary” means:

“82. ...there is a close connection between them, in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods lies with the same undertaking”.

60. For the purposes of considering the issue of similarity of the goods and services, it is permissible to consider groups of terms collectively where appropriate: *Separode Trade Mark*, BL O-399-10.

61. In *SkyKick UK Ltd & Anor v Sky Ltd & Ors (Rev1)* [2024] UKSC 36, Lord Kitchin set out the proper approach to considering terms in specifications:

“365. [...] The correct approach, as a matter of principle, in considering a specification of services which is defined by terms which are not clear or precise, is to confine the terms used to the substance or core of their possible meanings: see, for example, *Reed Executive plc v Reed Business Information Ltd* [2004] EWCA Civ 159; [2004] RPC 40, at para 43. So too, if a specification of goods is defined by terms which are ambiguous, then it should be confined to those goods which are clearly covered. These principles are consistent with first, the requirement that the specifications of goods and services must be clear and precise so that others know what they can and cannot do; and secondly,

general fairness because any ambiguity is the responsibility of the owner of the mark. If despite this, the words used are still unclear so that they cannot be interpreted, then it is permissible to disregard them. But, in my opinion, that will rarely be the case.”

62. In *YouView TV Ltd v Total Ltd* [2012] EWHC 3158 (Ch), Floyd J. (as he then was) stated that:

“... Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise: see the observations of the CJEU in Case C-307/10 *The Chartered Institute of Patent Attorneys (Trademarks) (IP TRANSLATOR)* [2012] ETMR 42 at [47]-[49]. Nevertheless the principle should not be taken too far. Treat was decided the way it was because the ordinary and natural, or core, meaning of ‘dessert sauce’ did not include jam, or because the ordinary and natural description of jam was not ‘a dessert sauce’. Each involved a straining of the relevant language, which is incorrect. Where words or phrases in their ordinary and natural meaning are apt to cover the category of goods in question, there is equally no justification for straining the language unnaturally so as to produce a narrow meaning which does not cover the goods in question.”

The parties’ arguments

63. The applicant makes the following points in its submissions in lieu:

“4. By the Opponent’s admission, the registered trade mark on which the Opponent relies is registered in relation to “**transport-related** services” in Class 39.

5. The only goods listed in the UKIPO’s Trade Mark Cross Search List, which lists, “the goods and/or services within each class, which may be the same or similar to the goods and/or services of your application”, as being searchable against Class 39 (the only class of the Opponent’s Earlier Right) are “fuel” in

Class 4. The only services searchable in Class 35 against Class 39 are “the bringing together” of the services specified in the Opponent’s Earlier Right.

6. None of the goods of the Applicant’s STOREX application are similar to the services of the Opponent’s Earlier Right in Class 39. Further, none of the goods of the Application have any commercial relationship with the services specified in the Opponent’s earlier Right.

7. None of the services in Class 35 of the Applicant’s STOREX and STOREX SELF STORAGE Applications are the same as or similar to the services of the Opponent’s Earlier Right in Class 39.

8. The Applicant’s “storage of goods; secure storage of goods; providing self-storage facilities for others; providing secure self-storage facilities for others; rental services relating to storage; rental of space, rooms, structures, units and containers for storage; rental of secure space, rooms, structures, units and containers for storage; warehouse storage; furniture storage; arranging the storage of goods; packaging services; packaging of goods; packaging of goods for storage; secure packaging of goods for storage; rental of space, structures, and units; information, advisory and consultancy services in relation to all of the aforementioned services” services in Class 39 are not similar to the services of the Opponent’s Earlier Right.”

64. In respect of the applicant’s arguments at paragraph 5, I note that I am not bound by the results of any search conducted using the “the UKIPO’s Trade Mark Cross Search List” when carrying out my own analysis of the goods and services at issue.

65. The opponent puts forward the following arguments in its submissions in lieu:

“Whilst the goods and services are presented across a number of classes, a substantial proportion of them are closely connected with the transportation, storage, warehousing, packaging and logistics sectors in which the Opponent’s earlier mark enjoys protection.

The Class 39 services of the application are particularly significant. They include transport, transportation of goods, storage of goods, warehouse storage, packaging services, packaging of goods, rental services relating to storage and transportation, and various information, advisory and consultancy services connected with those activities. These services are either identical to, or highly similar to, the corresponding services protected by the earlier registration. In several instances the specifications overlap directly through the use of identical terminology.

The goods claimed in Classes 6, 9, 16 and 20 also exhibit a clear commercial relationship with the Opponent's protected services. The Class 6 specification includes transportable buildings, storage containers and transport containers, all of which are routinely used within storage and logistics operations. The Class 9 specification includes software, data-processing apparatus, access-control systems and electronic security devices capable of being used in warehousing, transportation and logistics management. The Class 16 specification encompasses packaging materials and packaging products whose very purpose is to facilitate the storage and transportation of goods. Likewise, the Class 20 specification includes storage units, storage racks and containers for storage or transport. Consumers would readily perceive these goods as being connected with businesses operating within the storage and logistics industries.

The Class 35 services further reinforce that connection. The application seeks protection for retail and business services relating to many of the goods described above. Those services are naturally complementary to transportation and storage activities and would commonly be offered by undertakings active within the same commercial sector.”

Class 6

66.I compare the applicant's “metal containers”, “metal containers for storage” and “metal containers for transport” with the opponent's “... Rental of storage containers”. While they differ in terms of nature and method of use, they share the same end purpose, that of the storage of goods. There is also potential overlap in

trade channels in terms of outlets that sell containers and outlets that rent them out: some outlets will do both. The goods and the service are complementary in that containers are essential to the renting out of containers and prospective consumers of the goods and the service may think that the responsibility for them lies with the same undertaking. Further, the goods and the service will be in competition as between the choice of permanently acquiring a container and renting one. Overall, I find that the goods and the service are of medium similarity.

67. I make the same finding, that of medium similarity, for a term that encompasses metal containers, “structures ... of metal”.

68. I compare the applicant’s “... transportable buildings of metal” and “relocatable buildings of metal” with the opponent’s “... Rental of storage containers”. The goods and the service differ in nature and method of use. Their purposes also differ in that transportable buildings are intended to be used by people for purposes such as temporary offices, whereas the end goal of the opponent’s service is the storage of goods. The trade channels will differ as between the providers of transportable buildings and those companies that rent out containers. I do not consider the goods and the service to be complementary, nor are they in competition. The respective goods and the service are dissimilar.

69. I compare the applicant’s “small items of metal hardware” [such as door handles], “padlocks”, “locks” and “keys” with the opponent’s “Warehouse management ...” service. The goods and the service differ in nature and method of use. Their primary purposes also differ, being components that typically control access to a building or a room versus the managed warehousing of goods, albeit the latter needs to be done securely. The goods will generally be used by members of the public and businesses who need to control access to a building or a room whereas the service will be used by businesses that need their goods to be stored. The trade channels will differ as between retailers such as locksmiths and DIY stores and those offering a warehouse management service. I do not consider the goods and the service to be complementary because although goods such as padlocks can be important in offering an effective warehouse management service, I do not think that the prospective consumers of those goods and the service would think

that the responsibility for them lay with the same undertaking. I also do not consider the goods and the service to be in competition. Overall, what the goods and the service have in common is too limited for a finding of similarity. The respective goods and the service are dissimilar.

70. The applicant's "vaults" and "safes" differ in nature and method of use from the opponent's "Warehouse management ..." service. While both have to do with the storage of goods, the former are intended for the highly secure storage of valuables such as cash and jewellery rather than general goods. The trade channels will differ as between retailers that specialise in security and those offering a warehouse management service. I do not consider the goods and the service to be complementary, nor are they in meaningful competition. The respective goods and the service are dissimilar.

Class 9

71. The closest comparator to the applicant's "mobile apps", "software applications" and "computer software" is the opponent's "logistic services via a computer network and/or a web site". However, goods compared with services are intrinsically different in terms of their nature and method of use. Furthermore, the applicant's goods are generic software intended for a variety of purposes, and which could be used by both members of the public and businesses, whereas the opponent's services are highly specialised, being services which enable businesses to access logistics services via a computer network or a website. The trade channels would differ for the respective goods and services, the former being generic software houses and the latter being logistics companies. I do not consider that even where the users coincide in the form of businesses, that those businesses may think that the responsibility for generic software and services which enable businesses to access logistics services via a computer network or a website lies with the same undertaking and so I do not find there to be complementarity in this case. Nor are the goods and services in competition. I find the goods and services to be dissimilar.

72. I can find no common ground between the applicant's "apparatus and instruments for recording, transmitting, reproducing or processing sound, images ..." and "recorded and downloadable media" and the opponent's logistics services. I cannot see how there is any overlap between these goods – apparatus for processing sound and images and media such as music and films – and the opponent's services, even where they involve computer-based activity i.e. "Database services in the field of the transport, packaging and storage of goods" and "logistic services via a computer network and/or a web site". The respective goods and services differ in terms of nature and method of use, and they also vary in purpose. The former will have a wide range of users from the general public and businesses, whereas the users of the opponent's services will exclusively be businesses requiring logistics services. The trade channels for the goods and services will also differ and furthermore they are not complementary, nor are they in competition. The respective goods and services are dissimilar.

73. I compare the applicant's "apparatus and instruments for recording, transmitting, reproducing or processing ... data" and the opponent's "Database services in the field of the transport, packaging and storage of goods." Both have to do with data, but the respective goods and services differ in nature and method of use. The users of data processing apparatus will be businesses in general, whereas the users of the opponent's services will be businesses requiring a third-party logistics service that handles their data for that purpose. The trade channels will differ as between the retailers of data processing apparatus and the providers of logistics services. I do not consider the goods and the services to be complementary because although data processing apparatus is essential to the functioning of database services, I do not think that prospective consumers of those goods and services would think that the responsibility for generic database hardware and database services provided with a view to managing logistics would lie with the same undertaking. Rather, they would expect database services for the purposes of logistics to run on generic third-party database hardware that the logistics company would populate with a database structure and data according to the logistics needs of their customers. Furthermore, the goods and services would only be in very limited competition where a business customer faced a choice between building its own database and doing its own logistics as opposed to

utilising a third-party database service for that purpose. Overall, what the goods and services have in common is too limited for a finding of similarity. The respective goods and services are dissimilar.

74. I compare the applicant's "access control devices" and "electronic padlocks" with the opponent's "Warehouse management ..." service. The goods and the service differ in nature and method of use. Their primary purposes also differ – access control versus the managed warehousing of goods, albeit the latter needs to be done securely. Both the goods and the service will typically be used by businesses, the former by a variety of corporate customers who need to regulate access to their buildings, the latter by those who need their goods to be stored. The trade channels will differ as between the retailers of security systems and those offering a warehouse management service. I do not consider the goods and the service to be complementary because although access control systems are very important in offering an effective warehouse management service, I do not think that the prospective consumers of those goods and the service would think that the responsibility for them lay with the same undertaking. I also do not consider the goods and the service to be in competition. Overall, what the goods and service have in common is too limited for a finding of similarity. The respective goods and the service are dissimilar.

Class 16

75. I compare the applicant's "packaging materials", "packaging", "protective packaging", "protective containers", "articles of cardboard, paper or plastic for packaging", "plastic materials for packaging", "plastic sheets, films and bags for wrapping and packaging", "packaging for maintaining product integrity in transit or in storage", "partitions for packaging", "containers, boxes, cartons, cases, tubes, pouches, sleeves, bags and sheets for packaging", "cardboard packaging", "corrugated packaging", "rigid packaging", "packaging materials made from sustainable fibres", "fibreboard boxes", "fibreboard packaging", "recycled packaging", "recyclable packaging", "films for packaging", "printed packaging", "bubble wrap", "bubble packs for wrapping or packaging", "cardboard tubes", "packing tissue", "packing tape", "adhesive packaging tape", "adhesive tapes for

use in packaging and wrapping” and “adhesives for packaging or household purposes” with the opponent’s “Packaging ... of goods”. While the goods and the service differ in nature and method of use, they share the same ultimate purpose, that of packaging. There is a degree of overlap in trade channels in that companies that wrap goods for storage often sell packaging materials such as cardboard boxes, bubble wrap and parcel tape for customers to do their own packaging. There is also potential for complementarity and competition on that basis. Overall, I find the respective goods and the service to be of medium similarity.

76. I make the same finding as for the above goods, that of medium similarity, for “plastic bags”, “adhesive tapes for office or household use” and “office requisites” which encompass some of the above goods.

77. I compare the remaining goods in Class 16, “printed matter”, “stationery”, “pens”, “marker pens”, “printed publications”, “photographs” and “instructional and teaching materials” with the opponent’s logistics services. I can see no meaningful overlap here when considering nature, method of use, purpose, users, trade channels, complementarity and competition. They are dissimilar.

Class 20

78. I compare the applicant’s “storage units”, “storage racks” and “containers for storage or transport” with the opponent’s “... Rental of storage containers”. While they differ in terms of nature and method of use, they share the same end purpose, that of the storage of goods. There is also potential overlap in trade channels in terms of outlets that sell storage units, storage racks and containers and outlets that rent containers out. The goods and the service are potentially complementary in that storage units, storage racks and containers could be important to or essential in the renting out of containers to the extent that prospective customers for the goods and the service may think that the responsibility for them lies with the same undertaking. The level of competition will be limited to where there is a choice between permanently acquiring a container and renting one. Overall, I find that the goods and the service are of medium similarity.

79. In comparing the applicant's "furniture" – tables, chairs and so on – with the opponent's logistics services, I can see no meaningful overlap when considering nature, method of use, purpose, users, trade channels, complementarity and competition. They are dissimilar.

Class 35

80. I compare the applicant's "retail services relating to metal containers for storage, metal containers for transport" with the opponent's "... Rental of storage containers". Both are services relating to containers, the only difference being that the former concerns their permanent sale and the latter their rental. There is potential overlap in trade channels in terms of outlets that sell containers and outlets that rent them out: some outlets will do both. The services are not complementary, but they are in direct competition as between the retail and renting out of the same goods. Overall, I find these services to be of medium to high similarity.

81. I make the same finding, that of medium to high similarity, for a term that encompasses the retailing of metal containers, "Retail services relating to structures ... of metal".

82. I compare the applicant's "retail services relating to packaging materials, packaging, protective packaging, protective containers, articles of cardboard, paper or plastic for packaging, plastic materials for packaging, plastic sheets, films and bags for wrapping and packaging, packaging for maintaining product integrity in transit or in storage, partitions for packaging, containers, boxes, cartons, cases, tubes, pouches, sleeves, bags and sheets for packaging, cardboard packaging, corrugated packaging, rigid packaging, packaging materials made from sustainable fibres, fibreboard boxes, fibreboard packaging, recycled packaging, recyclable packaging, films for packaging, printed packaging, bubble wrap, bubble packs for wrapping or packaging, cardboard tubes, packing tissue, packing tape, adhesive packaging tape, adhesive tapes for use in packaging and wrapping and adhesives for packaging or household purposes" with the opponent's "Packaging ... of goods". Both services have to do with packaging. There is a degree of overlap in trade channels in that companies that wrap goods for storage often retail

packaging materials such as cardboard boxes, bubble wrap and parcel tape for customers to do their own packaging. There is also potential for complementarity and competition on that basis. Overall, I find the respective services to be of medium similarity.

83. I make the same finding as for the above services, that of medium similarity, for “retail services relating to plastic bags, adhesive tapes for office or household use, office requisites” which encompass some of the above services.

84. I compare the applicant’s “retail services relating to storage units, storage racks, containers for storage or transport, containers” with the opponent’s “... Rental of storage containers”. Both have to do with the storage of goods. There is also potential convergence in trade channels as between outlets that sell storage units, storage racks and containers and outlets that rent containers out. The services are potentially complementary in that storage units, storage racks and containers could be important to or essential in the renting out of containers to the extent that prospective customers for the respective services may think that the responsibility for them lies with the same undertaking. The level of competition will be limited to where there is a choice between permanently acquiring a container and renting one. Overall, I find that the services are of medium similarity.

85. I compare the applicant’s “retail services relating to transportable buildings of metal, relocatable buildings of metal, transportable buildings, not of metal, relocatable buildings, not of metal” with the opponent’s “... Rental of storage containers”. The former concern the permanent sale of buildings whereas the latter concerns the temporary renting out of containers for the storage of goods. Further, transportable buildings are intended to be used by people for purposes such as temporary offices, whereas the end goal of the opponent’s service is the storage of goods. The trade channels will differ as between the retailers of transportable buildings and those companies that rent out containers. I do not consider the services to be complementary, nor are they in competition. The respective services are dissimilar.

86. I compare the applicant's "retail services relating to small items of metal hardware [such as door handles], padlocks, locks, keys" with the opponent's "Warehouse management ..." service. The services differ in that the former involves the sale of physical goods that typically control access to a building or a room versus the managed warehousing of goods, albeit the latter needs to be done securely. The applicant's services will generally be used by members of the public and businesses who need to control access to a building or a room whereas the opponent's service will be used by businesses that need their goods to be stored. The trade channels will differ as between retailers such as locksmiths and DIY stores and those offering a warehouse management service. I do not consider the services to be complementary, nor do I regard them as in meaningful competition. The respective services are dissimilar.

87. I compare the applicant's "retail services relating to vaults" and the opponent's "Warehouse management ..." service. While both have to do with the storage of goods, the former are intended for the highly secure storage of valuables such as cash and jewellery rather than general goods. The trade channels will differ as between retailers that specialise in security, such as banks, and those offering a warehouse management service. I do not consider the services to be complementary, nor are they in meaningful competition. The respective services are dissimilar.

88. I compare the applicant's "retail services relating to mobile apps, software applications, computer software" with the opponent's "logistic services via a computer network and/or a web site". The services differ in that the former involves the sale of generic software intended for a variety of purposes, and which could be used by both members of the public and businesses, whereas the opponent's services are highly specialised, being packaged services that enable businesses to access logistics services via a computer network or a website. The trade channels would differ for the respective services, the former being generic software houses and the latter being logistics companies. The services are not complementary, nor are they in competition. I find the services to be dissimilar.

89. I can find no common ground between the applicant's "retail services relating to apparatus and instruments for recording, transmitting, reproducing or processing sound, images" and "retail services relating to recorded and downloadable media" and the opponent's logistics services. I cannot see how there is any overlap between the applicant's services – the sale of apparatus for processing sound and images and media such as music and films – and the opponent's services, even where they involve computer-based activity i.e. "Database services in the field of the transport, packaging and storage of goods" and "logistic services via a computer network and/or a web site". The respective services vary in purpose. The former will have a wide range of users from the general public and businesses, whereas the users of the opponent's services will exclusively be businesses requiring logistics services. The trade channels for the services will also differ and furthermore they are not complementary, nor are they in competition. The respective services are dissimilar.

90. I compare the applicant's "retail services relating to apparatus and instruments for recording, transmitting, reproducing or processing data" and the opponent's "Database services in the field of the transport, packaging and storage of goods." Both have to do with data, but the purchasers of data processing apparatus will be businesses in general, whereas the users of the opponent's services will be businesses requiring a third-party logistics service that handles their data for that purpose. The trade channels will differ as between the retailers of data processing apparatus and the providers of logistics services. I do not consider the services to be complementary because although data processing apparatus is essential to the functioning of database services, I do not think that prospective purchasers of generic database hardware and database services provided with a view to managing logistics would regard the responsibility for them as lying with the same undertaking. Rather, they would expect database services for the purposes of logistics to run on generic third-party database hardware that the logistics company would populate with a database structure and data according to the logistics needs of their customers. Furthermore, the services would only be in very limited competition where a business customer faced a choice between building its own database and doing its own logistics as opposed to utilising a third-party database

service for that purpose. Overall, what the services have in common is too limited for a finding of similarity. The respective services are dissimilar.

91. I compare the applicant's "retail services relating to access control devices, electronic padlocks" with the opponent's "Warehouse management ..." service. The primary purposes of the services differ – the sale of access control goods versus the managed warehousing of goods, albeit the latter needs to be done securely. Both the services will typically be used by businesses, the former by a variety of corporate customers who need to regulate access to their buildings, the latter by those who need their goods to be stored. The trade channels will differ as between the retailers of security systems and those offering a warehouse management service. I do not consider services to be complementary because although access control systems are very important in offering an effective warehouse management service, I do not think that the prospective consumers of the applicant's services and the opponent's service would think that the responsibility for them lay with the same undertaking. I also do not consider the services to be in competition. Overall, what the services have in common is too limited for a finding of similarity. The respective services are dissimilar.

92. I compare the applicant's "retail services relating to printed matter, stationery, pens, marker pens, printed publications, photographs, instructional and teaching materials" with the opponent's logistics services. I can see no meaningful overlap when considering nature, method of use, purpose, users, trade channels, complementarity and competition. They are dissimilar.

93. I compare the applicant's "retail services relating to structures, not of metal" with the opponent's "Rental of warehouse space". While warehouses can be built not of metal e.g. with bricks or breeze blocks, that is too tenuous a common factor for a finding of similarity. The applicant's services are for the permanent sale of structures, not of metal, which could be used for a vast array of purposes, whereas the opponent's service is the rental of warehouse space. I find the respective services to be dissimilar.

94. I compare the applicant's "retail services relating to furniture" – tables, chairs and so on – with the opponent's logistics services, I can see no meaningful overlap when considering nature, method of use, purpose, users, trade channels, complementarity and competition. They are dissimilar.

95. I make the same finding, that of dissimilarity, for the applicant's "business management, organization and administration" and "office functions".

96. My findings in this class extend to information, advisory and consultancy services thereof.

Class 39

97. The applicant's "storage of goods" is identical to the opponent's "... storage of goods".

98. The applicant's "packaging of goods" is identical to the opponent's "Packaging ... of goods".

99. The applicant's "secure storage of goods", "providing self-storage facilities for others", "providing secure self-storage facilities for others", "rental services relating to storage ...", "rental of space, rooms, structures, units and containers for storage", "rental of secure space, rooms, structures, units and containers for storage", "warehouse storage", "furniture storage" and "arranging the storage of goods" are *Merici* identical to the opponent's "... storage of goods"

100. The applicant's "packaging services", "packaging of goods for storage", "secure packaging of goods for storage", "packaging of goods for transportation" and "secure packaging of goods for transportation" are *Merici* identical to the opponent's "Packaging ... of goods".

101. The applicant's "transport" is *Merici* identical to the opponent's "Logistics in the transport sector".

102. The applicant's "transportation of goods" and "rental of space, structures, units and containers for transportation" are *Meric* identical to the opponent's "Logistics in the transport sector".

103. I compare the applicant's "rental services relating to ... transportation and vehicles" with the opponent's "... freight ... services". Both services are transport-related, the former being the renting out of vehicles such as lorries and cars, whereas the latter involves the transportation of goods by lorry or rail. The trade channels for the respective services would generally differ and they are not complementary, even though freight companies might routinely rent lorries in order to carry out their business. The services could, however, be in competition as between those who choose between transporting their goods themselves and those who elect to have their goods transported for them. Overall, I find the respective services to be of medium similarity.

104. I consider the applicant's "travel arrangement" service to be dissimilar to the opponent's logistics services. This is because the ordinary meaning of the applicant's term is the booking of travel for people, whereas the opponent's services involve the storage and transportation of goods. As such, the services differ in terms of nature, method of use, purpose, users and trade channels. Furthermore, they are not complementary, nor are they in competition.

105. My findings in this class extend to information, advisory and consultancy services thereof.

Summing up my analysis of the goods and services

106. My findings of similarity or otherwise in respect of goods extend to the parts and fittings thereof.

107. Where I have used a particular set of the opponent's services as a comparator, there are no other of the opponent's services that put it in a stronger position.

108. Because some degree of similarity between the goods and services is required for there to be a likelihood of confusion,³ the opposition fails at this point for the following goods and services which I have found to be dissimilar to the opponent's services:

Class 6 Transportable buildings of metal; relocatable buildings of metal; small items of metal hardware; padlocks; locks; keys; vaults; safes; parts and fittings for all of the aforementioned goods.

Class 9 Mobile apps; software applications; computer software; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; recorded and downloadable media; access control devices; electronic padlocks; parts and fittings for all of the aforementioned goods.

Class 16 Printed matter; stationery; pens; marker pens; printed publications; photographs; instructional and teaching materials; parts and fittings for all of the aforementioned goods.

Class 20 Furniture; parts and fittings for the aforementioned goods.

Class 35 Retail services relating to transportable buildings of metal, relocatable buildings of metal, small items of metal hardware, padlocks, locks, keys, vaults, mobile apps, software applications, computer software, apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data, recorded and downloadable media, access control devices, electronic padlocks, stationery, pens, marker pens, printed publications, photographs, instructional and teaching materials, structures and transportable buildings, not of metal, relocatable buildings, not of metal, furniture, and of parts and fittings for all of the aforementioned goods; business management, organization

³ *eSure Insurance v Direct Line Insurance*, [2008] ETMR 77 CA

and administration; office functions; information, advisory and consultancy services in relation to all of the aforementioned services.

Class 39 Travel arrangement; information, advisory and consultancy services in relation to the aforementioned service.

The average consumer and the nature of the purchasing act

109. It is necessary for me to determine who the average consumer is for the goods in question. I must then determine the manner in which the goods are likely to be selected by the average consumer in the course of trade.

110. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purpose of assessing the likelihood of confusion, it must be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods in question (*Lloyd Schuhfabrik Meyer*, Case C-342/97).

111. In *Iconix Luxembourg Holdings SARL v Dream Pairs Europe Inc & Anor*, [2025] UKSC 25, the Supreme Court approved the comments of Arnold LJ in *Lidl Great Britain Ltd & Anor v Tesco Stores Ltd & Anor (Rev1)* [2024] EWCA Civ 262, where he pointed out that:

- a) Consumers who are ill-informed or careless, or consumers with specialised knowledge or who are excessively careful are excluded from consideration;
- b) The average consumer provides a standard which enables the courts to strike a balance between the competing interests involved, such as trade mark owners, their competitors and consumers;
- c) The average consumer is neither a single hypothetical person nor a mathematical average; assessment from the perspective of the average consumer does not involve a statistical test. There is no single meaning rule and if, having regard to the perceptions and expectations of the average

consumer, the court considers that a significant proportion of the relevant public is likely to be confused, a finding of infringement may properly be made;

- d) Assessment from the perspective of the average consumer is intended to facilitate adjudication of trade mark disputes by providing an objective criterion, by promoting consistency of assessment and by enabling courts and tribunals to determine such issues so far as possible without the need for evidence;
- e) The average consumer's level of attention varies according to the category of goods or services in question; and
- f) the average consumer rarely has the opportunity to make direct comparisons between trade marks (or between trade marks and signs) and must instead rely upon the imperfect picture of the trade mark they have kept in their mind.

112. The competing goods and services at issue – containers and packaging which would be used as part of the storage and transportation of goods as logistics services – would be consumed by businesses. The price and specification of such goods and services would be given due regard by these consumers, but not to the extent that the level of attention paid during the purchasing process would be high. The level of attention paid would be medium.

113. Visual considerations would predominate during the purchasing process as potential customers perused catalogues and websites, but verbal considerations might come into play as supplementary questions about logistics were asked.

Comparison of the trade marks

114. It is clear from *Sabel BV v. Puma AG*, Case C-251/95 (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by

reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

“.....it is necessary to ascertain, in each individual case, the overall impression made on the target public by the sign for which registration is sought, by means of, inter alia, an analysis of the components of a sign and of their relative weight in the perception of the target public, and then, in the light of that overall impression and all factors relevant to the circumstances of the case, to assess the likelihood of confusion.”

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

116. The respective marks are shown below.

The opponent's mark	The applicant's marks
STOREX	STOREX STOREX SELF STORAGE

117. While I note the relevant case law,⁴ the opponent's mark and the applicant's "STOREX" mark are manifestly identical.

118. I now compare the opponent's mark and the applicant's "STOREX SELF STORAGE" mark.

119. The opponent's mark is the plain word mark "STOREX", the overall impression made by the mark deriving from that word alone.

⁴ *S.A. Société LTJ Diffusion v. Sadas Vertbaudet SA*, Case C-291/00

120. The applicant's mark consists of three plain words, "STOREX SELF STORAGE". The first of those words is more distinctive than the other two and slightly more dominant in forming the overall impression made by those marks, the other two words being descriptive of the applicant's services.
121. Visually, the marks share the identical first word and then the applicant's mark has the additional words "SELF STORAGE". The marks are of a medium level of visual similarity.
122. Aurally, the marks begin identically – "STOR-EX" – but then the rest of the applicant's mark is pronounced "SELF STOR-IDGE". The marks are of a medium level of aural similarity.
123. Conceptually, the word "STOREX", which contains the word "store", gives rise to the identical concept of storing things. The additional words in the applicant's mark, "SELF STORAGE" elicits the concept of storing things oneself. The marks are highly similar conceptually.

Distinctive character of the earlier mark

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

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

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not

contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51)."

125. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods or services, to those with high inherent distinctive character, such as invented words which have no allusive qualities.

126. I start with an assessment of the inherent distinctive character of the earlier mark.

127. The earlier mark is the word "STOREX" which, as an invented word, has a modicum of distinctiveness, but it contains the word "store" which is suggestive of the opponent's services and so I find it to be in the low range of inherent distinctiveness.

128. I have not been furnished with information as to the opponent's marketing expenditure, the size of the relevant market, or the opponent's market share and so the evidence before me is not sufficient to lead to a finding of enhanced distinctiveness.

Likelihood of confusion

129. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other, while 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 down to the responsible undertakings being the same or related. 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. 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. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the opponents' trade mark, the average consumer for the goods and 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 between trade marks and must instead rely upon the imperfect picture of them that they have retained in their mind.

130. In respect of the applicant's "STOREX" mark, I have found it to be manifestly identical to the opponent's mark. The level of attention paid by the average consumer for the competing goods and services would be medium with visual considerations predominating, although verbal considerations might come into play. Except where I have found the goods and services applied for under the mark to be dissimilar to the opponent's services i.e. where I have found them to be identical, of medium to high similarity, or of medium similarity, I find that there is a likelihood of direct confusion under section 5(2)(a) of the Act.

131. In respect of the applicant's "STOREX SELF STORAGE" mark, by comparison with the opponent's mark, except where I found the competing services to be dissimilar, they are identical, of medium to high similarity, or of medium similarity. The level of attention paid by the average consumer for the competing services would be medium with visual considerations predominating, although verbal considerations might come into play. The marks are of medium visual and aural similarity and are conceptually highly similar. The earlier mark which, as an invented word, has a modicum of distinctiveness, contains the word "store" which is suggestive of the opponent's services and so it is in the low range of inherent distinctiveness.

132. The words "SELF STORAGE" are descriptive of the applicant's services, and so they could easily be overlooked by the average consumer, leaving the identical word "STOREX" which as an invented word has a modicum of distinctiveness. In

this scenario, there would be a likelihood of direct confusion under section 5(2)(b) of the Act.

133. If I am wrong, and the words “SELF STORAGE” were noted by the average consumer, they would see the presence of the identical word “STOREX” in the two marks as indicative of an economic connection between them: they would regard the applicant’s mark as a sub-brand of the opponent’s brand, being the self-storage arm of the opponent’s general storage business. In this case there would be a likelihood of indirect confusion for all those services that I have found to be identical or similar.

CONCLUSION

134. Subject to appeal, in respect of the applicant’s “STOREX” mark, UK00003971735, the opposition succeeds under section 5(2)(a) for the following goods and services:

Class 6	Structures of metal; metal containers; metal containers for storage; metal containers for transport; parts and fittings for all of the aforementioned goods.
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Class 16	Packaging materials; packaging; protective packaging; protective containers; articles of cardboard, paper or plastic for packaging; plastic materials for packaging; plastic sheets, films and bags for wrapping and packaging; packaging for maintaining product integrity in transit or in storage; partitions for packaging; containers, boxes, cartons, cases, tubes, pouches, sleeves, bags and sheets for packaging; cardboard packaging; corrugated packaging; rigid packaging; packaging materials made from sustainable fibres; fibreboard boxes; fibreboard packaging; recycled packaging; recyclable packaging; films for packaging; printed packaging; bubble wrap; bubble packs for wrapping or packaging; cardboard tubes; packing tissue; plastic bags; packing tape; adhesive packaging tape; adhesive tapes for use in
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packaging and wrapping; adhesive tapes for office or household use; office requisites; adhesives for packaging or household purposes; parts and fittings for all of the aforementioned goods.

Class 20 Storage units; storage racks; containers for storage or transport; parts and fittings for all of the aforementioned goods.

Class 35 Retail services relating to structures of metal, metal containers for storage, metal containers for transport, packaging materials, packaging, protective packaging, protective containers, articles of cardboard, paper or plastic for packaging, plastic materials for packaging, plastic sheets, films and bags for wrapping and packaging, packaging for maintaining product integrity in transit or in storage, partitions for packaging, containers, boxes, cartons, cases, tubes, pouches, sleeves, bags and sheets for packaging, cardboard packaging, corrugated packaging, rigid packaging, packaging materials made from sustainable fibres, fibreboard boxes, fibreboard packaging, recycled packaging, recyclable packaging, films for packaging, printed packaging, printed matter, bubble wrap, bubble packs for wrapping or packaging, cardboard tubes, packing tissue, plastic bags, packing tape, adhesive packaging tape, adhesive tapes for use in packaging and wrapping, adhesive tapes for office or household use, office requisites, adhesives for packaging or household purposes, storage units, storage racks, containers for storage or transport, containers, and of parts and fittings for all of the aforementioned goods.

Class 39 Storage of goods; secure storage of goods; providing self-storage facilities for others; providing secure self-storage facilities for others; rental services relating to storage, transportation and vehicles; rental of space, rooms, structures, units and containers for storage; rental of secure space, rooms, structures, units and containers for storage; warehouse storage; furniture storage;

arranging the storage of goods; packaging services; packaging of goods; packaging of goods for storage; secure packaging of goods for storage; packaging of goods for transportation; secure packaging of goods for transportation; transport; transportation of goods; rental of space, structures, units and containers for transportation; information, advisory and consultancy services in relation to all of the aforementioned services.

135. The opposition has failed in respect of the applicant's "STOREX" mark, UK00003971735, for the following goods and services which proceed to registration:

Class 6 Transportable buildings of metal; relocatable buildings of metal; small items of metal hardware; padlocks; locks; keys; vaults; safes; parts and fittings for all of the aforementioned goods.

Class 9 Mobile apps; software applications; computer software; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; recorded and downloadable media; access control devices; electronic padlocks; parts and fittings for all of the aforementioned goods.

Class 16 Printed matter; stationery; pens; marker pens; printed publications; photographs; instructional and teaching materials; parts and fittings for all of the aforementioned goods.

Class 20 Furniture; parts and fittings for the aforementioned goods.

Class 35 Retail services relating to transportable buildings of metal, relocatable buildings of metal, small items of metal hardware, padlocks, locks, keys, vaults, mobile apps, software applications, computer software, apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data, recorded and downloadable media, access control devices,

electronic padlocks, stationery, pens, marker pens, printed publications, photographs, instructional and teaching materials, structures and transportable buildings, not of metal, relocatable buildings, not of metal, furniture, and of parts and fittings for all of the aforementioned goods; business management, organization and administration; office functions; information, advisory and consultancy services in relation to all of the aforementioned services.

Class 39 Travel arrangement; information, advisory and consultancy services in relation to the aforementioned service.

136. Subject to appeal, in respect of the applicant's "STOREX SELF STORAGE" mark, UK00003971737, the opposition succeeds under section 5(2)(b) for the following services:

Class 35 Retail services relating to structures of metal, metal containers for storage, metal containers for transport, packaging materials, packaging, protective packaging, protective containers, articles of cardboard, paper or plastic for packaging, plastic materials for packaging, plastic sheets, films and bags for wrapping and packaging, packaging for maintaining product integrity in transit or in storage, partitions for packaging, containers, boxes, cartons, cases, tubes, pouches, sleeves, bags and sheets for packaging, cardboard packaging, corrugated packaging, rigid packaging, packaging materials made from sustainable fibres, fibreboard boxes, fibreboard packaging, recycled packaging, recyclable packaging, films for packaging, printed packaging, printed matter, bubble wrap, bubble packs for wrapping or packaging, cardboard tubes, packing tissue, plastic bags, packing tape, adhesive packaging tape, adhesive tapes for use in packaging and wrapping, adhesive tapes for office or household use, office requisites, adhesives for packaging or household purposes, storage units, storage racks, containers for storage or transport,

containers, and of parts and fittings for all of the aforementioned goods; information, advisory and consultancy services in relation to all of the aforementioned services.

Class 39 Storage of goods; secure storage of goods; providing self-storage facilities for others; providing secure self-storage facilities for others; rental services relating to storage, transportation and vehicles; rental of space, rooms, structures, units and containers for storage; rental of secure space, rooms, structures, units and containers for storage; warehouse storage; furniture storage; arranging the storage of goods; packaging services; packaging of goods; packaging of goods for storage; secure packaging of goods for storage; packaging of goods for transportation; secure packaging of goods for transportation; transport; transportation of goods; rental of space, structures, units and containers for transportation; information, advisory and consultancy services in relation to all of the aforementioned services.

137. The opposition has failed in respect of the applicant's "STOREX SELF STORAGE" mark, UK00003971737, for the following services which proceed to registration:

Class 35 Retail services relating to transportable buildings of metal, relocatable buildings of metal, small items of metal hardware, padlocks, locks, keys, vaults, mobile apps, software applications, computer software, apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data, recorded and downloadable media, access control devices, electronic padlocks, stationery, pens, marker pens, printed publications, photographs, instructional and teaching materials, structures and transportable buildings, not of metal, relocatable buildings, not of metal, furniture, and of parts and fittings for all of the aforementioned goods; business management, organization and administration; office functions; information, advisory and

consultancy services in relation to all of the aforementioned services.

Class 39 Travel arrangement; information, advisory and consultancy services in relation to the aforementioned service.

COSTS

138. The opponent has been the more successful of the two parties and I award it proportional costs in line with Tribunal Practice Notice 1 of 2023, as follows:

Official fees x 2:	£200
Preparing statements and considering the other side's statements:	£300
Preparing evidence:	£750
Preparation of submissions:	£350
Total:	£1600

139. I therefore order EQT Partners Limited to pay Storex AB the sum of £1600. This sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 10th day of August 2026

John Williams
For the Registrar