

O/0729/26

TRADE MARKS ACT 1994

IN THE MATTER OF REGISTRATION NO. UK00003174090

IN THE NAME OF LEEP HOLDINGS (UTILITIES) LIMITED

IN CLASSES 37, 38 AND 39

AND AN APPLICATION FOR REVOCATION ON THE GROUNDS OF NON-USE

UNDER NO. 508237

BY LEAP24 B.V.

AND IN THE MATTER OF APPLICATION NOS. UK00004015621 AND

UK00004015611 BY LEAP 24 B.V.

AND CONSOLIDATED OPPOSITIONS THERETO UNDER NOS. 448040 AND

448050 BY LEEP HOLDINGS (UTILITIES) LIMITED

BACKGROUND AND PLEADINGS

The Oppositions

1. On 19 February 2024, Leap24 B.V. (“L24”) applied to register the following trade marks, in the UK:



UKTM no. 4015621
("the First Application")

LEAP24
UKTM no. 4015611
("the Second Application")

(together "the applications")

2. The applications were published for opposition purposes on 15 March 2024, and protection is sought for the following goods and services:

Class 9 Charging stations for electric vehicles; Apparatus and instruments for the conduction, distribution, conversion, storage, regulation and management of electricity; Data-processing equipment and computers; Computer software and applications for mobile telephones and computers; Debit cards (encoded or magnetic); Encoded or magnetic cards, including credit cards and debit cards, Payment cards (encoded or magnetic).

Class 37 Charging of electric vehicles; Installation of charging stations for electric vehicles; repair of charging stations for electric vehicles; maintenance of

repair of charging stations for electric vehicles; technical assistance for charging stations for electric vehicles.

3. On 14 June 2024, the applications were opposed by Leep Holdings (Utilities) Limited (“Leep”) based upon sections 5(2)(b), 5(3) and 5(4)(a) of the Trade Marks Act 1994 (“the Act”). Under sections 5(2)(b) and 5(3), Leep relies upon UKTM no. 3174090 for the mark **LEEP UTILITIES** which was filed on 12 July 2016 and registered on 14 October 2016 (“the earlier mark”).¹ The earlier mark stands registered for the following services, upon which Leep relies:

Class 37 Installation of water supply apparatus; installation of electricity generators; installation of gas pipelines; construction of sewerage systems; maintenance and repair of water supply installations; maintenance and repair of electricity installations; maintenance and repair of gas installations; maintenance and repair of sewerage systems; information and advisory and consultancy services relating to all of the foregoing.

Class 38 Telecommunications.

Class 39 Utility services in the nature of supply of water; utility services in the nature of distribution of electricity; utility services in the nature of storage of gas and distribution of gas; utility services in the nature of collection of sewage; information and advisory and consultancy services relating to all of the foregoing.

4. Under section 5(2)(b) of the Act, Leep claims that the parties’ respective marks are similar, and the goods and services are identical or similar, with the result that there is a likelihood of confusion.

¹ Given its earlier filing date, the trade mark relied upon by Leep qualifies as an earlier trade mark pursuant to section 6 of the Act.

5. Under section 5(3) of the Act, Leep claims to have a reputation for all of the services shown above and claims that use of L24's mark, without due cause, would take unfair advantage of, and/or be detrimental to, the distinctive character and/or repute of the earlier mark.

6. Under section 5(4)(a) of the Act, Leep relies upon the sign **LEEP UTILITIES** and the sign shown below, both of which it claims to have used throughout the UK since as early as 2017 in relation to "installation of water supply apparatus; installation of electricity generators; installation of gas pipelines; construction of sewerage systems; maintenance and repair of water supply installations; maintenance and repair of electricity installations; maintenance and repair of gas installations; maintenance and repair of sewerage systems; telecommunications; providing access to an online platform over the Internet; Utility services in the nature of supply of water; utility services in the nature of distribution of electricity; utility services in the nature of storage and gas and distribution of gas; utility services in the nature of collection of sewage; information and advisory and consultancy services relating to all the foregoing":



Leep claims that use of the applications would be contrary to the law of passing off.

7. L24 filed a counterstatement denying the grounds of opposition and putting Leep to proof of use.

8. On 30 August 2024, the oppositions were consolidated pursuant to Rule 62 of the Trade Marks Rules 2008.

The Revocation

9. On 20 December 2024, L24 applied to revoke the earlier mark in respect of the services underlined in paragraph 2 above based upon section 46(1)(a) of the Act. L24 claims non-use in the five-year period following the registration of the earlier mark i.e. 15 October 2016 to 14 October 2021, with an effective date of revocation of 15 October 2021.

10. Leep filed a counterstatement denying the grounds of revocation.

MY APPROACH

11. Although the oppositions are consolidated with each other, they are not consolidated with the revocation action. However, a single hearing was listed to deal with all three cases. Consequently, I will deal with all three in a single decision.

THE HEARING AND REPRESENTATION

12. A hearing took place before me on 23 July 2026, by video conference. L24 was represented by Joshua Marshall, of Counsel, instructed by Broadfield Law UK LLP. A skeleton argument was filed in advance of the hearing, along with an authorities bundle.

13. Leep elected not to attend the hearing, but filed written submissions in lieu dated 1 December 2025. Leep has been represented throughout these proceedings by Squire Patton Boggs (UK) LLP.

EVIDENCE IN THE OPPOSITIONS

14. Leep filed evidence in chief in the form of the witness statement of Victoria Louise Manfredi dated 13 November 2024, which is accompanied by 26 exhibits (VLM-1 to VLM-26). Ms Manfredi is the Chief Executive Officer for Leep, a position she had held for the last two years at the date of her statement.

15. L24 filed evidence in chief in the form of the witness statement of Pelle Schlichting dated 13 January 2024, which is accompanied by 27 exhibits (PS01 to PS27). Mr Schlichting is the founder and Chief Executive Officer of L24.

EVIDENCE IN THE REVOCATION

16. Leep filed evidence in the form of the witness statement of Ms Manfredi dated 16 June 2025, which is accompanied by 21 exhibits (VLM-1 to VLM-21).

17. L24 filed evidence in the form of the witness statement of Mr Schlichting dated 14 August 2025, which is accompanied by 8 exhibits (PS01 to PS08).

RELEVANCE OF EU LAW

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

DECISION

THE REVOCATION

19. Section 46 of the Act states as follows:

“46. - (1) The registration of a trade mark may be revoked on any of the following grounds-

(a) that within the period of five years following the date of completion of the registration procedure it has not 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, and there are no proper reasons for non-use;

(b) [...]

(c) [...]

(d) [...]

(2) For the purpose of subsection (1) 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 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.

(3) The registration of a trade mark shall not be revoked on the ground mentioned in subsection (1)(a) or (b) if such use as is referred to in that paragraph is commenced or resumed after the expiry of the five year period and before the application for revocation is made:

Provided that, any such commencement or resumption of use after the expiry of the five year period but within the period of three months before the making of the application shall be disregarded unless preparations for the commencement or resumption began before the proprietor became aware that the application might be made.

(4) [...]

(5) Where grounds for revocation exist in respect of only some of the goods or services for which the trade mark is registered, revocation shall relate to those goods or services only.

(6) Where the registration of a trade mark is revoked to any extent, the rights of the proprietor shall be deemed to have ceased to that extent as from-

(a) the date of the application for revocation, or

(b) if the registrar or court is satisfied that the grounds for revocation existing at an earlier date, that date”.

20. Section 100 of the Act is also relevant, which reads:

“If in any civil proceedings under this Act a question arises as to the use to which a registered trade mark has been put, it is for the proprietor to show what use has been made of it.”

21. 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 sub-category of goods or services, the principles may be summarised as follows:

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

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

(3) The use must be consistent with the essential function of a trade mark, which is to guarantee the identity of the origin of the goods or services to the consumer or end user by enabling him to distinguish the goods or services from others which have another origin: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Silberquelle* at [17]; *Centrotherm* at [71]; *Leno* at [29]; *Gözze* at [37], [40]; *Ferrari* at [32].

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

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

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

(7) Use of the mark need not always be quantitatively significant for it to be deemed genuine. Even minimal use may qualify as genuine use if it is deemed to be justified in the economic sector concerned for the purpose of creating or preserving market share for the relevant goods or services. For example, use of the mark by a single client which imports the relevant goods can be sufficient to demonstrate that such use is genuine, if it appears that the import operation has a genuine commercial justification for the proprietor. Thus there is no *de minimis* rule: *Ansul* at [39]; *La Mer* at [21], [24] and [25]; *Sunrider* at [72]; *Leno* at [55].

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

22. Proven use of a mark which fails to establish that “the commercial exploitation of the mark is real” because the use would not be “viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods or services protected by the mark” is, therefore, not genuine use.

Genuine use

Maintenance and repair of electricity installations.

23. Mr Marshall conceded in his skeleton argument that Leep has shown use of its mark in relation to maintenance and repair of electricity installations for the supply of electricity utility services. That, to my mind, seems like a reasonable and fair concession based upon the evidence before me insofar as it relates to the relevant services. For example, I note the following:

- a. There is an article from July 2018 which confirms that the Leep had been engaged on a site in Canary Wharf and that they had secured the contract to provide the “last-mile” network for electricity.²
- b. There is an article from July 2019 which confirms that the proprietor had been engaged in providing the electricity network at a site in Liverpool amounting to over 20 million square meters of residential, business and leisure space.³
- c. In May 2020, the proprietor secured the contract to provide the “last-mile” network for electricity in respect of Battersea Power Station, London.⁴

24. Clearly, these are all significant contracts for the provision of an electricity network as a utility service. This is supported by revenue figures which are provided by Ms Manfredi, which amount to over £8million in 2017, over £9million in 2018, over £11million in 2019 and over £20million in 2020. Whilst I bear in mind that these are overall turnover figures which cover all the utilities provided by the proprietor, a breakdown is provided for the turnover figures generated by its subsidiaries that specifically supply electricity,⁵ which (combined) amount to over £3 million for the year ending 31 March 2018, over £4 million for the year ending 31 March 2019 and over £5million for the years ending 31 March 2020 and 2021 respectively.⁶ This is further

² Exhibit VLM-12

³ Exhibit VLM-11

⁴ Exhibit VLM-13

⁵ See paragraph 9 of Ms Manfredi’s statement.

⁶ See paragraph 23 of Ms Manfredi’s statement.

supported by customer numbers for electricity services, which amounted to over 1,000 in 2017/2018/2019, over 3,000 in 2020 and over 5,000 in 2021. In addition to this, invoices have been provided which display an acceptable variant of the contested mark.⁷

25. It seems plain to me that the evidence of use shown by the proprietor does not go beyond the maintenance and repair of electrical installations for the supply of electricity utility services, as highlighted by Mr Marshall.

Installation of electricity generators.

26. No concessions are made by L24 with regard to this term and, in my view, the evidence falls well short of establishing genuine use. The high point of Leep's evidence is as follows:

- a. The fact that the proprietor "own and manage" a CHP engine which provides electricity serving 1,000 customers in Media City, Manchester.⁸
- b. An article from August 2023 which confirms that the proprietor has installed a transformer at a site in Liverpool "over the last 18 months".⁹

27. Point (a) relates to the fact that the proprietor owns and manages a CHP engine, which provides electricity. However, there is a complete absence of information regarding when this engine was installed (to enable me to assess whether it was installed during or prior to the relevant period) or who installed it. Ms Manfredi gives evidence that the proprietor owns and manages it, but that is not the same as providing an installation service. It is just as, if not more, plausible that the proprietor (or someone else) would have engaged the services of a third-party to install the CHP engine for them. Consequently, I do not find that this assists the proprietor in showing use in relation to installation services.

⁷ This is conceded at paragraph 28 of Mr Marshall's skeleton argument.

⁸ See paragraph 15(a) of Ms Manfredi's statement.

⁹ Exhibit VLM-15

28. Point (b) relates to the fact that the proprietor has installed a transformer. This appears to have taken place after the end of the relevant period, but I do not consider that to be an issue due to the application of section 46(3) of the Act. However, my understanding is that a transformer is a piece of electrical equipment which changes voltage. By contrast, a generator is a machine which produces electricity. Consequently, the fact that Leep has installed a transformer, does not show use in relation to the installation of electricity generators. These are two, very different, things. Consequently, I do not consider this evidence assists Leep. For the sake of completeness, the same issue applies to the evidence that references the installation of “meters”.¹⁰ Plainly, a meter is not the same as a generator.

29. With that in mind, I find that there has been no genuine use in relation to any services that fall within this term.

Fair Specification

30. 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, 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

¹⁰ See paragraph 19 of Ms Manfredi’s witness statement.

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.”

31. This approach was approved by the Supreme Court in *SkyKick UK Ltd & Anor v Sky Ltd & Ors (Rev1)* [2024] UKSC 36, subject to the proviso that it must be seen in light of more recent guidance by the CJEU that 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 (for example, *Ferrari SpA v DU* (Joined Cases C-720/18 and C-721/18) EU:C:2020:854; [2021] Bus LR 106, at paragraphs 36-53).

32. I have considered carefully whether the use shown by the proprietor should be limited in the way suggested by Mr Marshall i.e. to include the addition of the words “for the supply of electricity utility services” or whether the proprietor should be able to retain the full term claimed (or some other broader category). In my view, the proposal put forward by Mr Marshall is appropriate. This is because to allow the proprietor to

retain the full breadth of its specification would be overly broad based upon the use shown. Electrical installations at large would cover everything from street lighting to electronic advertising boards to factory power systems and electrified railway lines, which is plainly too broad for the use that has been shown. As such, I find a fair specification to be “maintenance and repair of electricity installations for the supply of electricity utility services”.

33. The revocation action is partially successful, with the following being a fair specification (insofar as the terms that were subject to revocation are concerned):

Class 37 Maintenance and repair of electricity installations for the supply of electricity utility services.

THE OPPOSITIONS

Proof of use

34. In his skeleton argument, Mr Marshall conceded use in respect of some of the terms relied upon by Leep, as follows:

Class 37 Maintenance and repair of water supply; maintenance and repair of electricity installations for the supply of electricity utility services; maintenance and repair of gas installations.

Class 39 Utility services in the nature of supply of water; utility services in the nature of distribution of electricity; utility services in the nature of storage of gas and distribution of gas.

35. The concession regarding *maintenance and repair of electricity installations* is, of course, subject to the same limitation as considered above in the revocation. For the same reasons, I find this to be reflective of the use shown (which is consistent in nature for the relevant period in the oppositions, as per the use shown in the relevant period in the revocation). As the above concessions cover the terms that I consider to be

closest to those in the specification of L24, I do not need to consider proof of use any further and will proceed on the basis of the above concessions.

Section 5(2)(b)

36. 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.”

37. 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.”

38. The following standard summary of the principles applicable to the assessment of the likelihood of confusion was approved by the Supreme Court in *Iconix Luxembourg Holdings SARL v Dream Pairs Europe Inc & Anor*, [2025] UKSC 25:

(a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors;

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed

and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

(e) nevertheless, the overall impression conveyed to the public by a composite trade mark may, in certain circumstances, be dominated by one or more of its components;

(f) and beyond the usual case, where the overall impression created by a mark depends heavily on the dominant features of the mark, it is quite possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

(g) a lesser degree of similarity between the goods or services may be offset by a greater degree of similarity between the marks, and vice versa;

(h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has been made of it;

(i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;

(j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense; and

(k) if the association between the marks creates a risk that the public might believe that the respective goods or services come from the same or economically linked undertakings, there is a likelihood of confusion.

Comparison of goods and services

39. The competing goods and services are as follows:

Leep's services (the opponent)	L24's goods and services (the applicant)
<u>Class 37</u> Maintenance and repair of water supply; maintenance and repair of electricity installations for the supply of electricity utility services; maintenance and repair of gas installations.	<u>Class 9</u> Charging stations for electric vehicles; Apparatus and instruments for the conduction, distribution, conversion, storage, regulation and management of electricity; Data-processing equipment and computers; Computer software and applications for mobile telephones and computers; Debit cards (encoded or magnetic); Encoded or magnetic cards, including credit cards and debit cards, Payment cards (encoded or magnetic).
<u>Class 39</u> Utility services in the nature of supply of water; utility services in the nature of distribution of electricity; utility services in the nature of storage of gas and distribution of gas.	<u>Class 37</u> Charging of electric vehicles; Installation of charging stations for electric vehicles; repair of charging stations for electric vehicles; maintenance of repair of charging stations for electric vehicles;

	technical assistance for charging stations for electric vehicles.
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40. 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 of its judgment 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.”

41. The relevant factors identified by Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, for assessing similarity were:

- (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.

42. Another factor in assessing similarity is to consider the extent to which the goods and/or services at issue may be regarded as “complementary”, which case law describes as meaning that “...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 the responsibility for those goods lies with the same undertaking.”¹¹

43. Specifications should be scrutinised carefully and terms should not be given a wide construction but should be confined to the substance or core of their possible meanings.¹² For the purposes of assessing similarity, it is permissible to group specified terms together where they are sufficiently comparable in essentially the same way for essentially the same reasons.¹³

44. Mr Marshall took issue with the fact that Leep’s pleading does not mention complementarity specifically; it only says that the parties’ goods and services are identical or similar. However, given that complementarity is one of the factors relevant to the assessment of similarity as set out in the case law, I do not consider that it needs to be expressly pleaded in order to be considered. Mr Marshall also took issue with the absence of evidence relating to the question of complementarity. At the hearing, I highlighted that there was in fact evidence exhibited to Ms Manfredi’s statement about the fact that there is some coincidence in trade channels for some of the goods/services in issue, which might go to the question of whether the average consumer would expect the same undertaking to be responsible for both (as per *Boston*).¹⁴ However, even if that were not the case, the Tribunal regularly assesses whether goods and services can be considered complementary without evidence on the point, and I do not consider that to be an issue for L24 in the present case.

¹¹ *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06

¹² See, for instance, *Avnet Incorporated v Isoact Limited* [1998] FSR 16, Jacob J (as he then was) at [19].

¹³ See *Separode Trade Mark* (BL O/399/10)

¹⁴ Exhibit VLM-25

Class 9

Charging stations for electric vehicles.

45. In my view, the users of these services will plainly overlap with “maintenance and repair of electricity installations for the supply of electricity utility services” and “utility services in the nature of distribution of electricity”, as both can be used by members of the general public and business users. The purpose of the goods and services overlaps at a general level, in that they are all concerned with the distribution/conveyance of electricity in some way. However, their specific purposes clearly differ. The method of use and nature of the goods and services will plainly differ. In terms of trade channels, I consider that there is likely to be an overlap in that utility providers may offer their customers charging stations for their vehicles to be installed at their homes. There is evidence to support my own views on this in the form of print outs from websites of businesses such as British Gas and Eon, showing that they offer both utilities and charging points for their customers.¹⁵ Whilst I bear in mind that this evidence is dated after the relevant date (being dated November 2024, some 9 months after the relevant date), I do not consider that the position would have been any different at the relevant date. Taking all of this into account, I find there to be a low degree of similarity between the goods and services.

Apparatus and instruments for the conduction, distribution, conversion, storage, regulation and management of electricity.

46. These are goods that would be used in the supply of electricity. It strikes me that these goods are likely to reach the market through the same businesses that offer maintenance/repair services of electrical installations for utility purposes, because as part of those services, parts and fittings that need replacing/updating are likely to be supplied. The user may also overlap. The specific purpose of the goods and services will differ, although at a high level they are all used for the effective conveyance/distribution of electricity. The method of use and nature will plainly differ.

¹⁵ Exhibit VLM-25

There is no competition or complementarity. In my view, the goods and services are similar to a low degree.

Data-processing equipment and computers; Debit cards (encoded or magnetic); Encoded or magnetic cards, including credit cards and debit cards, Payment cards (encoded or magnetic).

47. I have no evidence before me to suggest that there would be an overlap in trade channels between these goods and any of the services offered by Leep. There may be an overlap in user, but this is at a very high level of generality. The purpose, method of use and nature of the goods and services plainly differ. There is no competition or complementarity. In my view, the goods and services are dissimilar.

Computer software and applications for mobile telephones and computers.

48. These goods may include those that relate to utilities. For example, it might include apps offered by utility providers for customers to monitor their usage and/or payments. Mr Marshall submitted that even if this is the case, to find similarity on that basis would be akin to finding that a clothing shop that has a clock on the wall has also got protection for clocks. To my mind, that scenario would not result in an overlap in trade channels. However, in this case, a utility provider that also offers an app does result in an overlap in trade channels. There is also an overlap in user with Leep's "maintenance and repair of electricity installations for the supply of electricity utility services" and "utility services in the nature of distribution of electricity". The method of use, nature and purpose of the goods and services will clearly differ. There is no competition (given the differing purpose). However, I find that the goods and services are important or indispensable to each other (where the software relates to utilities), such that you would expect the same undertaking to be responsible for both. Consequently, they are complementary. My primary finding is that they are similar to between a low and medium degree. For the avoidance of doubt, even if I had found the goods and services not to be complementary, I still would have found there to be a low degree of similarity for the other reasons discussed above.

Class 37

Charging of electric vehicles; Installation of charging stations for electric vehicles; repair of charging stations for electric vehicles; maintenance of repair of charging stations for electric vehicles; technical assistance for charging stations for electric vehicles.

49. Mr Marshall conceded that there is a low degree of similarity between these services and Leep's "utility services in the nature of distribution of electricity" and/or "maintenance and repair of electricity installations for the supply of electricity utility services". In my view, the level of similarity is likely to be higher. However, as nothing will turn on it, I will proceed on the basis of the admission made.

The average consumer and the nature of the purchasing act

50. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purposes 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 and services in question: *Lloyd Schuhfabrik Meyer*, Case C-342/97.

51. In *Iconix* 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.

52. The average consumer for the goods and services will include both members of the general public and business users. It seems that both parties are in agreement that at least a moderate degree of attention will be paid during the purchasing process. I agree. However, I also accept Mr Marshall's submission that it may be higher than medium (although not, I think, high) in some circumstances (such as where business users are concerned).

53. The goods and services are likely to be purchased following perusal of signage at physical premises or on websites. Consequently, visual considerations will dominate the purchasing process. However, I do not discount an aural component to the purchase given that advice may be sought from specialist advisors and word-of-mouth recommendations may play a part.

Comparison of trade marks

54. It is clear from *Sabel* that the average consumer normally perceives a trade 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 trade marks must be assessed by reference to the overall impression created by the trade 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.”

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

56. The respective trade marks are shown below:

Leep’s trade mark (the opponent)	L24’s trade mark (the applicant)
LEEP UTILITIES	 (the First Application)

	LEAP24 (the Second Application)
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The Overall Impression

57. The earlier mark consists of the words LEEP UTILITIES. As the word UTILITIES will be understood as descriptive/non-distinctive, it will play a lesser role in the overall impression, with the distinctive and dominant element being the word LEEP.

58. The First Application consists of the word LEAP conjoined with the number 24. These elements are presented beneath a two-lined device. The eye is naturally drawn to the element of the mark that can be read. Mr Marshall submitted that these elements will be seen as a single conjoined word, and will not be separated by the average consumer when reading the mark. However, where a mark consists of two elements that are recognisable to the average consumer, they will typically break it down accordingly, irrespective of those elements being conjoined.¹⁶ With that in mind, and combined with the fact that the parties agree that the number 24 will be seen as alluding to the number of hours in the day, it is my view that the word LEAP is the more distinctive of the word/number elements. In my view, it plays the greatest role in the overall impression, with the device and number 24 playing a lesser role.

59. The Second Application consists of the word LEAP conjoined with the number 24. For the reason given above, the number 24 will be seen as allusive and so the word LEAP plays the greater role in the overall impression.

Visual Comparison

60. The Second Application and the earlier mark coincide in the presence of the letters LE-P in the same order. They differ in the third letter, being E in the earlier mark and A in the Second Application. I bear in mind that differences in shorter marks tend to

¹⁶ *Usinor SA v OHIM*, Case T-189/05

make more of an impact.¹⁷ The number 24 and the word UTILITIES are also points of difference, although the impact of that is lessened due to their reduced weight in the overall impression of the respective marks. In my view, the marks are visually similar to a slightly higher than medium degree.

61. The same is true of the comparison with the First Application. However, the device element acts as an additional point of difference. In my view, the marks are visually similar to a medium degree.

Aural Comparison

62. The device in the First Application will not be articulated and so both of the applications will be pronounced identically. Consequently, the same comparison will apply to both. In my view, the words LEEP and LEAP will be pronounced identically. The word UTILITIES in the earlier mark and the number 24 are points of aural difference, although I bear in mind their reduced weight in the overall impression. In my view, the marks are aurally similar to between a medium and high degree.

Conceptual Comparison

63. In my view, there is unlikely to be any concept conveyed by the device in the First Application as it simply looks like two lines running alongside each other. The word LEAP in the applications will plainly be recognised as a dictionary word and be attributed a meaning accordingly. Mr Marshall submitted that there is no conceptual similarity between the words LEAP and LEEP, the latter of which he submits will be viewed as an invented word with no meaning. In my view, there will be a significant proportion of average consumers who simply think that LEEP is the word LEAP (i.e. who, due to the aural identity of the words, assumes that they are one and the same). There will also be a significant proportion of average consumers who view the word LEEP as a misspelling (whether deliberate or not) of the word LEAP. The aural identity of those words is likely to result in the same word coming to mind for the average consumer upon encountering both marks. Consequently, I find that the meaning they

¹⁷ See, for example, F1T O/013/21

convey will be the same. The parties agree that the number 24 will be seen as referring to the number of hours in the day. This is a point of conceptual difference, albeit not particularly distinctive. The same is true of the word UTILITIES in the earlier mark. Overall, I find the marks to be conceptually similar to between a medium and high degree.

Distinctive character of the earlier mark

64. 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-2779, 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).”

65. 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, to those with high inherent distinctive character, such as invented words

which have no allusive qualities. The distinctive character of a mark can be enhanced by virtue of the use that has been made of it.

66. The earlier mark consists of the words LEEP UTILITIES. For the significant proportions of average consumers that I discussed above, the word LEEP will have a clear meaning (which is not allusive in any way) and, as such, the earlier mark will be inherently distinctive to a medium degree. I do not consider that the word UTILITIES, being purely descriptive, increases the distinctiveness of the mark as a whole.

67. Mr Marshall has conceded that there is enhanced distinctiveness in relation to the services in question. Even proceeding on the basis that any enhancement is only modest (which I did not understand to be Mr Marshall's position), this would result in the distinctiveness of the earlier mark being enhanced to between a medium and high degree. I will proceed on this basis.

Likelihood of confusion

68. 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 them and the goods and services 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 must be borne in mind. The first is the interdependency principle i.e. a lesser degree of similarity between the goods/services may be offset by a greater degree of similarity between the marks, and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the earlier marks, the average consumer for the goods/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 he has retained in his mind.

69. I have found as follows:

- a. The goods and services are similar to at least a low degree.
- b. The average consumer for the goods and services will include members of the general public and business users who will pay at least a moderate degree of attention (although it may be higher in some circumstances).
- c. The purchasing process is predominantly visual, although I do not discount an aural component.
- d. The First Application and the earlier mark are visually similar to a medium degree, and aurally and conceptually similar to between a medium and high degree.
- e. The Second Application and the earlier mark are visually similar to a slightly higher than medium degree, and aurally and conceptually similar to between a medium and high degree.
- f. The earlier mark is inherently distinctive to a medium degree, which has been enhanced through use to at least between a medium and high degree in relation to the relevant services.

70. In my view, the words LEEP and LEAP are likely to be mistaken one for the other. This will either be because the difference in spelling is simply not noticed, bearing in mind the aural identity, or because the conceptual meaning conveyed by them, for those who perceive the one as a misspelling of the other, results in them being imperfectly recalled. I bear in mind that the marks also include the words 24 and UTILITIES. However, both parties have accepted that these elements are allusive or non-distinctive. Consequently, the average consumer is less likely to focus upon them when recalling the marks, particularly accounting for imperfect recollection. With that in mind, I find a likelihood of direct confusion in respect of the Second Application, even where the goods and services are similar to only a low degree, due to the impact of the enhanced distinctiveness of the earlier mark. In my view, the device in the First Application is unlikely to be overlooked given its size, and so there will be no direct confusion in respect of that mark.

71. I will now consider whether there is a likelihood of indirect confusion. In *L.A. Sugar Limited v By Back Beat Inc*, Case BL O/375/10, Mr Iain Purvis Q.C., as the Appointed Person, explained that:

“16. Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different from the earlier mark. It therefore requires a mental process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: ‘The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark’.

17. Instances where one may expect the average consumer to reach such a conclusion tend to fall into one or more of three categories:

- (a) where the common element is so strikingly distinctive (either inherently or through use) that the average consumer would assume that no-one else but the brand owner would be using it in a trade mark at all. This may apply even where the other elements of the later mark are quite distinctive in their own right (‘26 RED TESCO’ would no doubt be such a case).
- (b) where the later mark simply adds a non-distinctive element to the earlier mark, of the kind which one would expect to find in a sub-brand or brand extension (terms such as ‘LITE’, ‘EXPRESS’, ‘WORLDWIDE’, ‘MINI’ etc.).

- (c) where the earlier mark comprises a number of elements, and a change of one element appears entirely logical and consistent with a brand extension ('FAT FACE' to 'BRAT FACE' for example)".

72. Accounting for the enhanced distinctiveness of the earlier mark, I find that the average consumer will perceive the marks to be sub-brands or brand extensions. This is because the words LEAP/LEEP are likely to be imperfectly recalled, and the addition/absence of the word UTILITIES and the number 24 are likely to be seen as indicative of the utilities branch of the business or a 24-hour offering. The device in the First Application is likely to be perceived as a logo mark being used by the same business.

73. In making this finding, I have borne in mind Mr Marshall's submission that the enhanced distinctiveness of the earlier mark does not assist Leep. This, he said, is because people will be so used to seeing the word LEEP (spelt differently to the usual dictionary word) that the use of the word LEAP (spelt in the usual way) will counter any potential for them to be misremembered as each other. However, in my view, that goes directly against what the case law tells us. For example, there is case law which states that, where a mark benefits from enhanced distinctiveness, consumers tend to see what they expect to see.¹⁸ Further, in *Kerly's Law of Trade Marks and Trade Names* the position is explained as follows:¹⁹

"11-080. [...] Where the earlier mark has been used and has acquired a more distinctive character it is clear, following *Sabel v Puma*, that this is a matter which must be taken into account later as a factor likely to increase the risk of confusion (it certainly cannot reduce the risk; in other words, use can only improve the chances of a likelihood of confusion being found)." (my emphasis)

Taking all of this into account, I find there to be a likelihood of indirect confusion, even where the goods and services are similar to only a low degree.

¹⁸ *Kennedy Fried Chicken*, Case BL O/227/04

¹⁹ 17th Edition.

74. The oppositions based upon section 5(2)(b) succeed in relation to the following goods and services:

Class 9 Charging stations for electric vehicles; Apparatus and instruments for the conduction, distribution, conversion, storage, regulation and management of electricity; Computer software and applications for mobile telephones and computers.

Class 37 Charging of electric vehicles; Installation of charging stations for electric vehicles; repair of charging stations for electric vehicles; maintenance of repair of charging stations for electric vehicles; technical assistance for charging stations for electric vehicles.

75. The oppositions based upon section 5(2)(b) of the Act fail in respect of the following goods:

Class 9 Data-processing equipment and computers; Debit cards (encoded or magnetic); Encoded or magnetic cards, including credit cards and debit cards, Payment cards (encoded or magnetic).

Final Remarks

76. Even if I had found genuine use for any of the other terms in Leep's specification it would not have put them in any stronger position. This is because I would have found those services to also be dissimilar to those that survived the section 5(2)(b) oppositions. As such, the oppositions would still have failed under this ground to the same extent.

77. Further, for the avoidance of doubt, even in respect of any average consumers who perceive LEEP as an invented word (as suggested by Mr Marshall), I would still have found a likelihood of confusion. This is because the visual and aural similarities between the marks would overcome any conceptual differences. Clearly, conceptual differences would only become apparent if the misspelling was noticed and, in my view, the similarity of the words LEEP and LEAP would result in the average consumer

misremembering them one for the other, either resulting in direct confusion (if the other, non- or less distinctive elements were not recalled) or indirect confusion (if they were).

Section 5(3)

78. I can deal with this ground relatively swiftly. Mr Marshall has (rightly) conceded that Leep has a reputation for the same services as discussed above in relation to enhanced distinctiveness. For the same reasons above, I find that a link would be made in the mind of the relevant public in respect of all of those goods and services for which the section 5(2)(b) ground succeeded. In my view, there would be unfair advantage due to L24 gaining a familiarity in the mind of the relevant public without having to invest in marketing, which Leep has plainly done during the course of its business. However, in respect of those goods that survived the 5(2)(b) ground of opposition, I can see no reason why a link would be made. Whilst I bear in mind that the goods and services do not need to be similar for a link to arise, their proximity is a relevant factor. In my view, they are simply too far apart for the relevant public to make the requisite link. As such, the 5(3) ground succeeds to the same extent as the 5(2)(b) ground.

Section 5(4)(a)

79. Section 5(4)(a) of the Act states as follows:

“5(4) A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented -

a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, where the condition in subsection (4A) is met,

aa)...

b) ...

A person thus entitled to prevent the use of a trade mark is referred to in this Act as the proprietor of “an earlier right” in relation to the trade mark.”

80. Again, I can deal with this ground relatively swiftly. Whilst the test for misrepresentation is different from that for likelihood of confusion in that it entails “deception of a substantial number of members of the public” rather than “confusion of the average consumer”, it has been acknowledged that they are unlikely to produce different outcomes in practice.²⁰ I find that to be the case here. This ground, therefore, will also succeed only to the same extent as the section 5(2)(b) ground.

CONCLUSION

Conclusion on revocation action

81. The application for revocation against UKTM no. 3174090 is partially successful. As a result, the earlier mark shall be revoked with the exception of the following services for which it will remain registered:

Class 37 Installation of water supply apparatus; installation of gas pipelines; construction of sewerage systems; maintenance and repair of water supply installations; maintenance and repair of electricity installations for the supply of electricity utility services; maintenance and repair of gas installations; maintenance and repair of sewerage systems; information and advisory and consultancy services relating to all of the foregoing.

Class 38 Telecommunications.

Class 39 Utility services in the nature of supply of water; utility services in the nature of distribution of electricity; utility services in the nature of storage of gas and distribution of gas; utility services in the nature of collection

²⁰ *Marks and Spencer PLC v Interflora* [2012] EWCA (Civ) 1501

of sewage; information and advisory and consultancy services relating to all of the foregoing.

82. The effective date of revocation is 15 October 2021.

Conclusion on consolidated oppositions

83. The oppositions are successful in relation to the following goods and services for which the applications are refused:

Class 9 Charging stations for electric vehicles; Apparatus and instruments for the conduction, distribution, conversion, storage, regulation and management of electricity; Computer software and applications for mobile telephones and computers.

Class 37 Charging of electric vehicles; Installation of charging stations for electric vehicles; repair of charging stations for electric vehicles; maintenance of repair of charging stations for electric vehicles; technical assistance for charging stations for electric vehicles.

84. The oppositions are unsuccessful in relation to the following goods, for which the applications may proceed to registration:

Class 9 Data-processing equipment and computers; Debit cards (encoded or magnetic); Encoded or magnetic cards, including credit cards and debit cards, Payment cards (encoded or magnetic).

COSTS

85. Leep has requested off-scale costs due to the duplicative nature of the opposition and revocation actions i.e. putting the use that Leep has made of its marks in issue in two different sets of proceedings. In my view, this argument is entirely without merit. Firstly, the impact of the use findings in a revocation action and an opposition are entirely different. As such, I can see no basis for criticising a party for bringing both

actions. Secondly, the revocation was partially successful so it cannot possibly have been made without reason or merit. Consequently, I dismiss the request for off-scale costs.

86. With regard to the costs in these proceedings, I bear in mind that Leep has enjoyed the greater degree of success in the consolidated oppositions and that L24 enjoyed the greater degree of success in the revocation. As such, I direct that each party bears their own costs.

Dated this 12th day of August 2026

S WILSON

For the Registrar