

O/0743/26

TRADE MARKS ACT 1994

**IN THE MATTER OF INTERNATIONAL REGISTRATION NO. 1829214
IN THE NAME OF CONTEMPORARY AMPEREX TECHNOLOGY CO., LIMITED
FOR THE FOLLOWING TRADE MARK:**

Tectrans

IN CLASS 9

AND

**IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 600003647
BY TECTRAN MFG. INC**

BACKGROUND AND PLEADINGS

1. CONTEMPORARY AMPEREX TECHNOLOGY CO., LIMITED (“the holder”) is the holder of the International Registration (“the IR”) shown on the cover page of this decision. The IR was registered on 29 October 2024 and, with effect from the same date, the holder designated the UK as a territory in which it seeks to protect the IR under the terms of the Madrid Protocol. The IR was published for opposition purposes on 10 January 2025. The holder seeks protection in the UK for the following goods:

Class 9: Batteries, electric, for vehicles; battery jars; battery boxes; battery chargers; batteries, electric; accumulators, electric; charging stations for electric vehicles; mobile power supply [rechargeable batteries]; battery charging devices for motor vehicles; solar batteries.

2. The IR enjoys a priority date of 25 September 2024, which is based on an earlier Chinese trade mark owned by the holder under number 81107879.

3. On 9 April 2025, the IR was opposed in its entirety by Tectran Mfg. Inc. (“the opponent”) under the fast track procedure. The opposition is brought under section 5(2)(b) of the Trade Marks Act 1994 (“the Act”), with the opponent relying upon the following trade marks:

TECTRAN

United Kingdom Trade Mark (“UKTM”) 801464163

Filing Date: 10 December 2018

Registration Date: 28 May 2020

Priority Date: 15 June 2018¹

Relying on some goods, namely:

Class 9: Tire pressure gauges; pressure gauges; vehicle load gauges; electrical meters, hour meters for vehicles, speedometer, tachometer, pyrometer, and fuel meters; temperature gauges for vehicles; thermocouples;

¹ From US trade mark 88001877.

magnetic sensors; pneumatic, hydraulic, and electrical components, parts, replacement parts, assemblies and related accessories for motor vehicles, trucks, trailers, and transportation equipment, namely, connector plugs and sockets, lead wires, wires, gauge mounting brackets, cables, cords, cord adapters, plugs, sockets, control valves, battery terminals, terminal protectors, circuit breaker mounting strips, switches, electrical terminals, terminal strips, junction boxes, fuses, fuse holders, circuit breakers, relays, cable spacers, supports, dipsticks, signal generators, electrical cables and cable assemblies for transferring power between the tractor and trailer; wires, terminals and connectors bundled together to transmit electric power and signals from tractor and trailer.

Class 12: Gladhand connectors, gladhand connector handles, gladhand connector seals, gladhand connector grips, gladhand connector locks, and gladhand connector filters for hose coupling assemblies; truck and trailer brackets and clamps for hoses, pipes, wires and cables; pneumatic, hydraulic, and electrical components, parts, replacement parts, assemblies and related accessories for motor vehicles, trucks, trailers, and transportation equipment, namely, brakes, brake hardware, brake tubing, brake hoses, brake connectors, and brake assemblies, suspension components, couplings, air coils, anti-lock brake system (ABS) cables, connector plugs and sockets, transmission and compressor cables, brake chambers, air cylinders, air tanks, horns, electric horns, air horns, gauge mounting brackets, hoses, tubing, lead wires, wires, cables, cords, cord adapters, plugs, sockets, valves, control valves, tubes, sleeves, battery terminals, terminal protectors, circuit breaker mounting strips, switches, ignition and starter switches, electrical terminals, terminal strips, junction boxes, fuses, fuse holders, circuit breakers, relays, flashers, accelerator pedals, bulbs, bushings, grommets, cable ties, tape, heat guns, brass fittings, composite fittings, steel fittings, hose fittings, terminal bolts, air brake fittings, hose spacers, supports, tenders, hangars, keepers, and clamps, cable spacers, supports and clamps, fuel tank clamps and tubes, oil filter caps and

dipsticks, tarp straps, hose support springs, undercarriage spring assemblies, suspension springs, pogo sticks, turn signals for vehicles, signal generators, electronic treadle pedals, hose routings, protection and mounting devices, automatic and manual slack adjusters, brake stroke indicators, air distribution fittings, air reservoirs, air control boxes and components, air dryers, air dumps, air filters, air coil products for connection from tractor to trailer, air brake connection couplings, powercoils, pin locks, electrical cables and cable assemblies for transferring power between the tractor and trailer, tire and coil inflation kits, anti-theft and back-up alarms for safety sound warnings for vehicles in reverse, hubcaps and accessories, vehicle radiator connecting hoses, air lines, straight air lines, coiled air lines, hose routings, protection and mounting devices, clevis assemblies, yokes, pins, and components, air brake diaphragms, air pumps, dashboard fans, fuel tank caps, all of the foregoing for use in connection with vehicles, but not for use in connection with engines; wires, terminals and connectors bundled together to transmit electric power and signals from tractor and trailer; hoses and clamps for connection from tractor to trailer.

("the opponent's first mark")



United Kingdom Trade Mark ("UKTM") 801472579

Filing Date: 10 December 2018

Registration Date: 02 July 2020

Priority Date: 15 June 2018²

Relying on some goods, namely:

Class 9: Tire pressure gauges; pressure gauges; vehicle load gauges; electrical meters, hourmeters for vehicles, speedometer, tachometer, pyrometer, and fuel meters; temperature gauges for vehicles; thermocouples; magnetic sensors; pneumatic, hydraulic, and electrical components,

² From US trade mark 88001973.

parts, replacement parts, assemblies and related accessories for motor vehicles, trucks, trailers, and transportation equipment, namely connector plugs and sockets, lead wires, wires, gauge mounting brackets, cables, cords, cord adapters, plugs, sockets, control valves, battery terminals, terminal protectors, circuit breaker mounting strips, switches, electrical terminals, terminal strips, junction boxes, fuses, fuse holders, circuit breakers, relays, cable spacers, supports, dipsticks, signal generators, electrical cables and cable assemblies for transferring power between the tractor and trailer, wires, terminals and connectors bundled together to transmit electric power and signals from tractor and trailer.

Class 12: Gladhand connectors, gladhand connector handles, gladhand connector seals, gladhand connector grips, gladhand connector locks, and gladhand connector filters for hose coupling assemblies for trucks and trailers; brackets for hoses, pipes, wires and cables, being structural parts of trucks and trailers; pneumatic, hydraulic, and electrical components, parts, replacement parts, assemblies and related accessories for motor vehicles, trucks, trailers, and transportation equipment, namely, brakes, brake hardware, brake tubing, brake hoses, brake connectors, and brake assemblies, suspension components, couplings, air coils for break or suspension systems, anti-lock brake system (ABS) cables, transmission cables, brake chambers, air cylinders and air tanks for braking systems, flashers being turn signals for vehicles, horns, electric horns, air horns, accelerator pedals, bushings, grommets, brass fittings, composite fittings, steel fittings, air brake fittings, oil filter caps, undercarriage spring assemblies, suspension springs, electronic treadle pedals, automatic and manual slack adjusters, brake stroke indicators, air distribution fittings for break or suspension systems, air reservoirs for break or suspension systems, air control boxes and components for break or suspension systems, air dryers for break or suspension systems, air dumps for break or suspension systems, air filters for break or suspension systems, air coil products for connection of breaking systems from tractor to trailer, air brake connection

couplings, tire and coil inflation kits, anti-theft and back-up alarms for safety sound warnings for vehicles in reverse, hubcaps and accessories, air brake diaphragms, air pumps, fuel tank caps, all of the foregoing for use in connection with vehicles, but not for use in connection with engines.

("the opponent's second mark")

4. The opponent's marks qualify as 'earlier marks' in accordance with section 6 of the Act. As the marks had not been registered for five years or more at the filing date of the application, they are not subject to the proof of use requirements specified within section 6A of the Act. Consequently, the opponent may rely upon all of the goods for which the earlier marks are registered without having to establish genuine use.

5. In its statement of grounds, the opponent claims that the marks are almost identical and that the goods are identical or similar, and as such, there exists a likelihood of confusion.

6. The holder filed a counterstatement in which it denied the claims against it.

7. Rule 6 of the Trade Marks (Fast Track Opposition) (Amendment) Rules 2013, S.I. 2013 2235, disapplies paragraphs 1-3 of Rule 20 of the Trade Mark Rules 2008 but provides that Rule 20(4) shall continue to apply. Rule 20(4) states that:

"(4) The registrar may, at any time, give leave to either party to file evidence upon such terms as the registrar thinks fit."

8. The net effect of these changes is to require the parties to seek leave in order to file evidence in fast track oppositions. No leave was sought by either party.

9. Rule 62(5) (as amended) states that arguments in fast track proceedings shall be heard orally only if (i) the Office requests it or (ii) either party to the proceedings requests it and the registrar considers that oral proceedings are necessary to deal with the case justly and at proportionate cost; otherwise, written arguments will be taken. A hearing was neither requested nor considered necessary, and I note that only the

holder filed written submissions in lieu. This decision is taken following a careful perusal of the papers.

10. The holder is represented by Boulton Wade Tennant LLP and the opponent by Sonder & Clay.

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.

DECISION

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

“(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.”

13. Section 5A of the Act states as follows:

“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.”

14. 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 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

15. The competing goods are as follows:

The opponent's goods	The holder's goods
The '163 mark: <u>Class 9</u> Tire pressure gauges; pressure gauges; vehicle load gauges; electrical meters, hour meters for vehicles, speedometer, tachometer, pyrometer, and fuel meters; temperature gauges for vehicles; thermocouples; magnetic sensors; pneumatic, hydraulic, and <u>electrical components, parts, replacement parts, assemblies and related accessories for motor vehicles, trucks, trailers, and</u>	<u>Class 9</u> Batteries, electric, for vehicles; battery jars; battery boxes; battery chargers; batteries, electric; accumulators, electric; charging stations for electric vehicles; mobile power supply [rechargeable batteries]; battery charging devices for motor vehicles; solar batteries.

transportation equipment, namely, connector plugs and sockets, lead wires, wires, gauge mounting brackets, cables, cords, cord adapters, plugs, sockets, control valves, battery terminals, terminal protectors, circuit breaker mounting strips, switches, electrical terminals, terminal strips, junction boxes, fuses, fuse holders, circuit breakers, relays, cable spacers, supports, dipsticks, signal generators, electrical cables and cable assemblies for transferring power between the tractor and trailer; wires, terminals and connectors bundled together to transmit electric power and signals from tractor and trailer.

Class 12

Gladhand connectors, gladhand connector handles, gladhand connector seals, gladhand connector grips, gladhand connector locks, and gladhand connector filters for hose coupling assemblies; truck and trailer brackets and clamps for hoses, pipes, wires and cables; pneumatic, hydraulic, and electrical components, parts, replacement parts, assemblies and related accessories for motor vehicles, trucks, trailers, and transportation equipment, namely, brakes, brake hardware, brake tubing, brake hoses,

brake connectors, and brake assemblies, suspension components, couplings, air coils, anti-lock brake system (ABS) cables, <u>connector plugs and sockets</u> , transmission and compressor cables, brake chambers, air cylinders, air tanks, horns, electric horns, air horns, gauge mounting brackets, hoses, tubing, <u>lead wires, wires, cables, cords, cord adapters, plugs, sockets</u> , valves, control valves, tubes, sleeves, <u>battery terminals, terminal protectors</u> , circuit breaker mounting strips, switches, ignition and starter switches, <u>electrical terminals, terminal strips</u> , junction boxes, fuses, fuse holders, circuit breakers, relays, flashers, accelerator pedals, bulbs, bushings, grommets, cable ties, tape, heat guns, brass fittings, composite fittings, steel fittings, hose fittings, terminal bolts, air brake fittings, hose spacers, supports, tenders, hangars, keepers, and clamps, cable spacers, supports and clamps, fuel tank clamps and tubes, oil filter caps and dipsticks, tarp straps, hose support springs, undercarriage spring assemblies, suspension springs, pogo sticks, turn signals for vehicles, signal generators, electronic treadle pedals, hose routings, protection and mounting devices, automatic and manual slack adjusters, brake stroke indicators, air distribution	
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fittings, air reservoirs, air control boxes and components, air dryers, air dumps, air filters, air coil products for connection from tractor to trailer, air brake connection couplings, powercoils, pin locks, electrical cables and cable assemblies for transferring power between the tractor and trailer, tire and coil inflation kits, anti-theft and back-up alarms for safety sound warnings for vehicles in reverse, hubcaps and accessories, vehicle radiator connecting hoses, air lines, straight air lines, coiled air lines, hose routings, protection and mounting devices, clevis assemblies, yokes, pins, and components, air brake diaphragms, air pumps, dashboard fans, fuel tank caps, all of the foregoing for use in connection with vehicles, but not for use in connection with engines; wires, terminals and connectors bundled together to transmit electric power and signals from tractor and trailer; hoses and clamps for connection from tractor to trailer.

The '579 mark:

Class 9

Tire pressure gauges; pressure gauges; vehicle load gauges; electrical meters, hourmeters for vehicles, speedometer, tachometer, pyrometer, and fuel meters;

temperature gauges for vehicles; thermocouples; magnetic sensors; pneumatic, hydraulic, and electrical components, parts, replacement parts, assemblies and related accessories for motor vehicles, trucks, trailers, and transportation equipment, namely connector plugs and sockets, lead wires, wires, gauge mounting brackets, cables, cords, cord adapters, plugs, sockets, control valves, battery terminals, terminal protectors, circuit breaker mounting strips, switches, electrical terminals, terminal strips, junction boxes, fuses, fuse holders, circuit breakers, relays, cable spacers, supports, dipsticks, signal generators, electrical cables and cable assemblies for transferring power between the tractor and trailer, wires, terminals and connectors bundled together to transmit electric power and signals from tractor and trailer.

Class 12

Gladhand connectors, gladhand connector handles, gladhand connector seals, gladhand connector grips, gladhand connector locks, and gladhand connector filters for hose coupling assemblies for trucks and trailers; brackets for hoses, pipes, wires and cables, being structural parts of trucks

<u>and trailers; pneumatic, hydraulic, and electrical components, parts, replacement parts, assemblies and related accessories for motor vehicles, trucks, trailers, and transportation equipment, namely, brakes, brake hardware, brake tubing, brake hoses, brake connectors, and brake assemblies, suspension components, couplings, air coils for break or suspension systems, anti-lock brake system (ABS) cables, transmission cables, brake chambers, air cylinders and air tanks for braking systems, flashers being turn signals for vehicles, horns, electric horns, air horns, accelerator pedals, bushings, grommets, brass fittings, composite fittings, steel fittings, air brake fittings, oil filter caps, undercarriage spring assemblies, suspension springs, electronic treadle pedals, automatic and manual slack adjusters, brake stroke indicators, air distribution fittings for break or suspension systems, air reservoirs for break or suspension systems, air control boxes and components for break or suspension systems, air dryers for break or suspension systems, air dumps for break or suspension systems, air filters for break or suspension systems, air coil products for connection of breaking systems from tractor to trailer, air brake</u>	
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connection couplings, tire and coil inflation kits, anti-theft and back-up alarms for safety sound warnings for vehicles in reverse, hubcaps and accessories, air brake diaphragms, air pumps, fuel tank caps, all of the foregoing for use in connection with vehicles, but not for use in connection with engines.	
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16. In *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, the Court of Justice of the European Union (“CJEU”) stated at paragraph 23 of its judgment:

“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.”

17. 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.

18. 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 Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06, the General Court stated that “complementary” means:

“...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.”

19. In *Sanco SA v OHIM*, Case T-249/11, the General Court indicated that goods and services may be regarded as ‘complementary’ and therefore similar to a degree in circumstances where the nature and purpose of the respective goods and services are very different. The purpose of examining whether there is a complementary relationship between goods and services is to assess whether the relevant public are liable to believe that responsibility for the goods and services lies with the same undertaking or with economically connected undertakings. As Mr Daniel Alexander Q.C. noted as the Appointed Person in *Sandra Amalia Mary Elliot v LRC Holdings Limited* BL O/255/13:

“It may well be the case that wine glasses are almost always used with wine – and are, on any normal view, complementary in that sense - but it does not follow that wine and glassware are similar goods for trade mark purposes.”

Whilst on the other hand:

“.....it is neither necessary nor sufficient for a finding of similarity that the goods in question must be used together or that they are sold together.”

20. In *Les Éditions Albert René v OHIM*, Case T-336/03, the General Court found that:

“61... The mere fact that a particular good is used as a part, element or component of another does not suffice in itself to show that the finished goods containing those components are similar since, in particular, their nature, intended purpose and the customers for those goods may be completely different.”

21. In *YouView Ltd v Total Ltd* [2012] EWHC 3158 (Ch) at [12] Floyd J stated:

“...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.”

22. I also bear in mind the comments of Mr Iain Purvis KC, sitting as a deputy High Court judge in *Unicorn Studio Inc v Veronese (Société par Actions Simplifiée)* [2024] EWHC 1098 (Ch).³ The judge reiterated that the overall purpose of assessing similarity between goods is to identify similarities which might be relevant to the likelihood of confusion, and that the greater the level of generality at which some similarity can be

³ Paragraphs 23 and 24.

found, the less relevant it could be. He concluded that “any finding of similarity in the end requires the exercise of common sense and requires the hearing officer to stand back and consider the overall question.”

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

24. Pursuant to section 60A of the Act, goods and services are not to be automatically regarded as being similar to each other on the ground that they appear in the same class under the Nice Classification⁴, nor automatically regarded as dissimilar from each other on the ground that they appear in different classes under the Nice Classification

25. In its statement of grounds, the opponent submits that the holder’s goods are identical to, closely similar to, or associated with its own goods. The opponent has provided a comparison table of the respective goods, in which it has underlined those terms in classes 9 and 12 of its earlier specifications which, it argues, are “essentially identical to” and “used in close conjunction with” the holder’s goods, and are also “used by the same consumer” and “available for sale in the same retail and wholesale outlets”.⁵ I have reproduced that underlining in the comparison table above for ease of reference.

26. I have submissions from the holder in respect of the comparison of the goods at issue. While I do not intend to reproduce those submissions here, I do note that they expand upon the denial of any similarity between the competing goods set out in the counterstatement.⁶

27. I agree with the opponent that the underlined goods in the comparison table represent the closest comparators to the holder’s goods. Accordingly, I will base my

⁴ “Nice Classification” means the system of classification under the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957.

⁵ Opponent’s statement of grounds, paragraphs 9-14 and 21-26.

⁶ Holder’s submissions, paragraphs 11-33.

comparison on those goods.⁷ I note that the term “namely” has been used within the holder’s specification in both classes. Specifications including “namely” should be interpreted as only covering the named goods, that is, the specification is limited to those goods. Consequently, while the opponent’s specification includes “electrical components, parts, replacement parts, assemblies and related accessories for motor vehicles, trucks, trailers, and transportation equipment”, those goods are qualified by the term “namely”. Therefore, I must focus my comparison on those named goods, rather than the broader categories that precede them. This is consistent with the definitions provided in Collins English Dictionary which states “namely” to mean “that is to say” and the Cambridge International Dictionary of English which states “which is or are”.

Batteries, electric, for vehicles; Batteries, electric; accumulators, electric; Mobile power supply [rechargeable batteries]

28. The holder’s goods are electrical energy storage devices designed to store and supply electrical energy. The opponent’s goods, by contrast, are electrical components and assemblies used to connect, protect and transmit electrical current and signals within vehicle electrical systems. The goods therefore differ in terms of their nature and purpose. Although not all of the holder’s goods are limited to vehicles, the unrestricted terms are sufficiently broad to encompass electric batteries for vehicles. To that extent, I consider that there is an overlap in method of use, as both parties’ goods may be installed within vehicle electrical systems and contribute to their operation.

29. Both the opponent’s goods and the holder’s goods are likely to be purchased by vehicle manufacturers, garages and vehicle owners. Accordingly, I find there to be an overlap in users. As for trade channels, both sets of goods are available through automotive parts retailers. I therefore find there to be an overlap in trade channels.

⁷ For the avoidance of doubt, I have considered all of the opponent’s goods, but the underlined goods remain the closest comparators.

30. The goods are not in competition. The average consumer would not purchase any of the holder's electrical energy storage devices in place of any of the opponent's electrical components and assemblies. I do, however, consider the goods to be complementary. The opponent relies upon "battery terminals", which are specifically designed to connect a battery to a vehicle's electrical system and are therefore important for the operation of that system. Although battery terminals are a specialised category of vehicle component and differ from batteries in their nature and primary purpose, the functional relationship between the goods is sufficiently close that consumers may think that the responsibility for both lies with the same undertaking. Standing back and assessing the position overall, I find the goods similar to a low degree.

Solar batteries

31. While these goods remain electrical energy storage devices, they are specifically intended to store electricity generated by solar power systems. Their primary purpose is therefore linked to renewable energy generation and storage rather than vehicle electrical systems. In any event, I have no evidence before me to suggest that vehicle electrical systems typically use, or are powered by, solar batteries. I therefore do not consider that solar batteries would ordinarily be used in vehicles. The goods therefore differ from the opponent's goods in their nature, purpose and method of use.

32. As the opponent's goods are intended for use in vehicles, I consider the users of the goods to be different. I do not consider there to be an overlap in trade channels as the holder's goods are likely to be sold through specialist renewable energy suppliers, whereas the opponent's goods would be sold by automotive parts retailers.

33. The goods are not in competition. Nor do I consider them to be complementary. Solar batteries are not important or indispensable to the operation of the opponent's vehicle electrical components. Equally, the opponent's vehicle electrical components are not important or indispensable to the operation of solar batteries. Nor would consumers expect responsibility for those goods to lie with the same undertaking. Standing back and assessing the position overall, I find the goods to be dissimilar.

Battery jars; battery boxes

34. My understanding of these goods is that they are containers or housings used to hold batteries and protect them from damage. By contrast, the opponent's goods are electrical components and assemblies used to connect, protect, control or transmit electrical current and signals within electrical systems. Although some of the opponent's goods may have a protective function, such as "terminal protectors", they protect electrical terminals rather than batteries or battery housings. The goods therefore differ in their nature, purpose and method of use.

35. The holder's goods are likely to be purchased by vehicle manufacturers and garages, as well as battery specialists and members of the general public. Accordingly, there is an overlap in users. While the holder's goods are protective housings or containers rather than electrical components, both sets of goods may be encountered through automotive parts retailers and online suppliers. Consequently, I find there to be some overlap in trade channels.

36. The goods are not in competition. Nor do I consider them to be complementary. While some of the opponent's goods, such as "battery terminals, cables and terminal protectors", may be used in connection with a battery housed within a battery box, that relationship is indirect. Battery jars and battery boxes are not important or indispensable to the operation of the opponent's vehicle electrical components. Equally, the opponent's electrical components are not important or indispensable to the operation of battery jars and battery boxes. Nor would consumers expect responsibility for those goods to lie with the same undertaking. Standing back and assessing the position overall, I find the goods similar to a low degree.

Battery chargers; battery charging devices for motor vehicles

37. The holder's goods are charging devices, whereas the opponent's goods are electrical components and assemblies used within vehicle electrical systems. Although not all of the holder's goods are limited to motor vehicles, the term "battery chargers" is sufficiently broad to encompass battery chargers for vehicles.

38. I remind myself of the General Court's finding in *Les Éditions Albert René v OHIM*⁸ that the mere fact that one good is used as a part, element or component of another does not, in itself, establish similarity. The goods differ in their nature, purpose, and method of use.

39. Both the opponent's goods and the holder's goods are likely to be purchased by vehicle manufacturers, garages and vehicle owners. Accordingly, I find there to be an overlap in users. In the absence of any evidence to the contrary, I consider that the trade channels are likely to overlap. For example, automotive parts retailers and suppliers of vehicle electrical equipment may sell both vehicle battery chargers and vehicle electrical components and assemblies.

40. The goods are not in competition. Nor do I consider them to be complementary. While a battery charger may be used with some of the opponent's goods, I do not consider the relationship between those goods to be sufficiently close that they are complementary in the trade mark sense.⁹ They are not important or indispensable to one another, nor would consumers expect responsibility for them to lie with the same undertaking. Standing back and assessing the position overall, I find the goods similar to a low degree.

Charging stations for electric vehicles

41. While these goods are also used to charge vehicle batteries, they differ from battery chargers in their nature and operation. It is my understanding that the ordinary and natural meaning of a charging station is a fixed installation designed to supply electrical energy directly to electric vehicles, often as part of a wider charging infrastructure. They differ from the opponent's goods in their nature, purpose and method of use.

42. The holder's goods are likely to be purchased by a broad range of users. While there may be some overlap in users, I consider any such overlap to be limited. As for

⁸ Case T-336/03.

⁹ *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06

trade channels, the holder's goods are more likely to be sold through electrical installation providers and EV charging suppliers than suppliers of vehicle electrical components. Accordingly, I do not consider there to be any meaningful overlap in trade channels.

43. The goods are not in competition. Nor do I consider the goods to be complementary. Charging stations for electric vehicles are not important or indispensable to the operation of the opponent's vehicle electrical components, nor are the opponent's vehicle electrical components important or indispensable to the operation of charging stations for electric vehicles. Nor would consumers expect responsibility for those goods to lie with the same undertaking.

44. While there may be an overlap in users, I do not consider that overlap to be sufficient to support a finding of similarity. Standing back and assessing the position overall, I find the goods to be dissimilar.

45. As some degree of similarity between the goods is required for a successful claim under section 5(2)(b) of the Act,¹⁰ the opposition must fail in respect of those goods that I have found to be dissimilar, namely:

Charging stations for electric vehicles; solar batteries

The average consumer and the purchasing act

46. It is necessary for me to determine who the average consumer is for the goods in question and how the goods are likely to be selected. The average consumer is deemed to be reasonably well informed, observant and circumspect.¹¹

47. 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*

¹⁰ eSure Insurance v Direct Line Insurance, [2008] ETMR 77 CA.

¹¹ *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), paragraph 60.

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.

48. The holder submits that the average consumer for the goods is likely to be a member of the general public or a member of the professional public, who will pay a medium to high degree of attention when selecting the goods, with a higher degree of

attention being paid to goods requiring a detailed assessment of factors such as compatibility and functionality.¹²

49. Given the nature of the goods, I agree with the holder's submissions that the average consumer is likely to be a member of the general public or a professional in the trade. The goods are likely to be obtained by self-selection from retail outlets or online. Visual considerations are therefore likely to dominate the selection process. However, I do not discount the role of aural considerations, for example, where the goods are purchased following interactions with sales assistants or professionals in the automotive industry.

50. The goods are likely to vary considerably in price, ranging from relatively inexpensive items such as battery jars and battery boxes to more expensive goods such as vehicle batteries. Nevertheless, consumers are likely to pay attention to factors such as compatibility, suitability and technical characteristics to ensure that the goods meet their requirements. Accordingly, I find that the goods will attract at least a medium degree of attention, rising to a high degree of attention for goods requiring a more detailed technical assessment.

Comparison of the marks

51. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) 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 impressions created by the trade marks, bearing in mind their distinctive and dominant components.

52. The CJEU stated in *Bimbo SA v OHIM*, Case C-591/12P, 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

¹² Holder's submissions, paragraphs 35 – 36.

of, inter alia, an analysis of the components of a sign and of their relevant 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.”

53. 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 trade 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.

54. The respective trade marks are shown below:

The opponent's marks	The holder's mark
TECTRAN ("the opponent's first mark")  ("the opponent's second mark")	Tectrans

55. In its statement of grounds, the opponent submits that the marks are visually, phonetically and conceptually “almost identical” and “exceptionally closely similar”. It further submits that the dominant and distinctive element of its second mark is the word ‘TECTRAN’ and that the figurative element “does not detract from the word element of the earlier mark” or alter the “phonetic and conceptual identity” or “visual similarity” of the marks.¹³

56. By contrast, the holder denies that the marks are visually, phonetically and conceptually “almost identical” or “exceptionally closely similar”, although it accepts

¹³ Opponent’s statement of grounds, paragraphs 5-8 and 17-20.

that there is a degree of visual similarity between its mark and the opponent's first mark.¹⁴ It denies that the word 'TECTRAN' is the dominant and distinctive element of the opponent's second mark and argues that the figurative element "also plays a dominant role within the mark".¹⁵ The holder further submits that the marks contain "clear visual and aural differences and are conceptually dissimilar".¹⁶

Overall impression

57. The opponent's first mark is a word only mark consisting solely of the uppercase word 'TECTRAN'. There are no other elements to contribute to the overall impression, which lies in the word 'TECTRAN' itself.

58. The opponent's second mark is a figurative mark consisting of the uppercase word 'TECTRAN', presented in a standard black typeface, accompanied to the left by a geometric black and white device comprising a rounded-square border enclosing a stylised white central square. Owing to its size and central position within the mark and bearing in mind that consumers tend to focus on elements of marks that can be read,¹⁷ I find that the word 'TECTRAN' is the dominant and distinctive element of the mark. The device also contributes to the overall impression, albeit to a much lesser extent.

59. The holder's mark is a word only mark consisting solely of the word 'Tectrans'. There are no other elements to contribute to the overall impression, which lies in the word 'Tectrans' itself.

Visual comparison

The opponent's first mark and the holder's mark

¹⁴ Holder's counterstatement, paragraph 10.

¹⁵ Holder's counterstatement, paragraph 17.

¹⁶ Holder's submissions, paragraph 49.

¹⁷ Migros-Genossenschafts-Bund v EUIPO – Luigi Lavazza (CReMESPRESSO), Case T-189/16, paragraph 52.

60. Visually, the marks coincide in the seven-letter sequence 'T-E-C-T-R-A-N'. Given that a registration of a word mark allows for its presentation in a combination of uppercase and/or lowercase letters, no weight attaches to any difference in that respect. The marks differ only by the addition of the letter 's' at the end of the holder's mark. Although not negligible, this difference is likely to have limited visual impact because it consists solely of the addition of the letter 's' at the end of an otherwise identical seven-letter word. Consumers are accustomed to words appearing in both singular and plural forms, even where the preceding word is not an ordinary dictionary word. I also bear in mind that the beginnings of words generally have a greater impact on consumers.¹⁸ Overall, I find the marks to be visually similar to a high degree.

The opponent's second mark and the holder's mark

61. Visually, the marks coincide in the seven-letter sequence 'T-E-C-T-R-A-N'. They differ by the addition of the letter 's' at the end of the holder's mark and the presence of a device element in the opponent's mark. For the reasons set out in paragraph 60, I consider that the addition of the letter 's' has only a limited visual impact. Taking account of my earlier findings regarding the overall impressions of the marks, I find the marks to be visually similar to a medium to high degree.

Aural comparison

The opponent's first mark and the holder's mark

62. Aurally, the marks coincide in the word 'TECTRAN'. The additional letter 's' at the end of the holder's mark is the only point of aural difference. The holder submits that the addition of the letter 's' at the end of its mark significantly changes its pronunciation because consumers will perceive 'Tec' and 'trans' as separate elements.¹⁹ I do not consider that the average consumer would perceive the mark in this way. Even if some average consumers were to perceive the marks in that way, they would still share the same opening sounds and differ only by the additional 's' sound in the holder's mark,

¹⁸ *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02.

¹⁹ Holder's submissions, paragraph 45.

which, being a soft sounding letter sitting at the end of the word, does not represent a significant point of difference. I therefore find the marks to be aurally similar to a high degree.

The opponent's second mark and the holder's mark

63. Aurally, the marks coincide in the word 'TECTRAN'. The device element of the opponent's mark will not be articulated. The additional letter 's' at the end of the holder's mark is the only point of aural difference. For the reasons set out in paragraph 62, the additional letter 's' does not represent a significant point of difference. I therefore find the marks to be aurally similar to a high degree.

Conceptual comparison

The opponent's first mark and the holder's mark

64. For the purposes of the conceptual comparison, I must consider whether the marks convey a meaning to the average consumer. The opponent submits that the marks would be understood as amalgamations of abbreviations derived from 'technology' or 'technical' and 'transport'.²⁰ The holder accepts that 'TEC' could be understood as a reference to 'technology' or 'technical' but submits that the additional letter 's' at the end of its mark gives rise to the concept of 'across' rather than 'transport', rendering the marks conceptually dissimilar.²¹ In my view, perceiving the marks in that way would require a degree of analysis unlikely to be undertaken by the average consumer, particularly as the ordinary abbreviation for 'technology' or 'technical' is 'tech'. It would also involve an artificial dissection of the marks. I am therefore not satisfied that the average consumer would understand the marks in the way submitted by either party. Accordingly, I find that the marks will be perceived as invented words with no conceptual meaning. The marks are therefore conceptually neutral.

The opponent's second mark and the holder's mark

²⁰ Opponent's statement of grounds, paragraphs 7.

²¹ Holder's counterstatement, paragraphs 8-9 and submissions, paragraphs 47-48.

65. For the reasons given at paragraph 64, I find that the word 'TECTRAN' will likewise be perceived as an invented word with no conceptual meaning. The opponent's second mark also contains the geometric device. I have already found that the overall impression of the mark is dominated by the word 'TECTRAN', with the device playing a lesser role. I have no submissions from either party as to whether the device conveys any concept. In my view, it does not convey a clear concept capable of altering the conceptual comparison. Accordingly, I find the marks to be conceptually neutral.

Distinctive character of the earlier marks

66. The distinctive character of a trade mark can be measured only, first, by reference to the goods or services in respect of which registration is sought and, second, by reference to the way it is perceived by the relevant public. 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)."

67. Registered trade marks possess varying degrees of inherent distinctive character, ranging from very low, where they are suggestive or allusive of a characteristic of the goods or services, to high, such as invented words with no allusive qualities. Although the distinctive character of a mark may be enhanced through use, the opponent filed no evidence to that effect. As such, I have only the inherent position to consider.

The opponent's first mark

68. The opponent's mark consists solely of the word 'TECTRAN'. As discussed at paragraph 64, the average consumer will perceive the mark as an invented word with no conceptual meaning. It is therefore neither descriptive of nor allusive to the goods at issue. Consequently, I find that the mark enjoys a high degree of inherent distinctive character.

The opponent's second mark

69. The opponent's mark is a figurative mark consisting of the word 'TECTRAN' accompanied to the left by a geometric device. As set out in the assessment of the overall impression, I find that the word 'TECTRAN' is the dominant and distinctive element of the mark, with the device playing a lesser role. A similar conclusion applies when assessing the mark's inherent distinctive character. The geometric device makes only a limited contribution and does not increase the mark's inherent distinctive character beyond that conveyed by the word 'TECTRAN'. Accordingly, the mark's inherent distinctive character is determined principally by the word 'TECTRAN'. For the reasons set out in paragraph 68, the word 'TECTRAN' will be perceived as an invented word with no conceptual meaning. It is therefore neither descriptive of nor allusive to the goods at issue. Consequently, I find that the opponent's mark enjoys a high degree of inherent distinctive character.

Likelihood of confusion

70. 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. One such factor 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 vice versa (*Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97). As I mentioned above, it is necessary for me to keep in mind the distinctive character of the earlier trade marks, the average consumer for the goods, and the nature of the purchasing process. In doing so, I must be mindful 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.

71. 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.

72. Earlier in the decision I found that:

- The goods at issue are similar to a low degree.
- The average consumer for the goods at issue is a member of the general public or a professional in the trade, who will pay a medium to high degree of attention during the purchasing process.
- The purchasing process for the goods is predominantly visual, although, I do not discount an aural component.
- The overall impression of the opponent's first mark lies in the word 'TECTRAN'.
- The overall impression of the opponent's second mark is dominated by the word 'TECTRAN' with the device playing a much lesser role.

- The overall impression of the holder's mark lies in the word 'Tectrans'.
- The opponent's first mark and the holder's mark are visually similar to a high degree and aurally similar to a high degree, while being conceptually neutral.
- The opponent's second mark and the holder's mark are visually similar to a medium to high degree and aurally similar to a high degree, while being conceptually neutral.
- The opponent's marks are inherently distinctive to a high degree.

73. Taking all these factors into account and bearing in mind the imperfect recollection of the average consumer, it is my view that there is a likelihood of the marks being mistaken for one another. I reach this conclusion on the basis that the marks coincide in the seven-letter sequence 'T-E-C-T-R-A-N'. They differ only by the addition of the letter 's' at the end of the holder's mark and, in the case of the opponent's second mark, the presence of the device element. I consider that the average consumer is likely to overlook, or imperfectly recall, the final 's', particularly as consumers are accustomed to words appearing in both singular and plural forms, even where the preceding word is not an ordinary dictionary word. When seeking to recall the marks, the average consumer is likely to pin their recollection on the word element, which constitutes the entirety of the holder's mark and the opponent's first mark, and is the dominant element of the opponent's second mark. Whilst the device element of the opponent's second mark may be noticed, it is the word element upon which the average consumer is likely to pin their recollection. Consequently, I consider that the average consumer is unlikely to accurately recall which mark was accompanied by a figurative device and which was not. In reaching this conclusion, I have borne in mind that the marks are conceptually neutral. However, I do not consider that this is sufficient to counteract the high degree of aural similarity or the high and medium to high degrees of visual similarity between the marks, particularly given that the purchasing process is predominantly visual.²² Consequently, I consider there to be a likelihood of direct confusion between the marks. I am of the view that this finding

²² See paragraphs 49 and 50 of *New Look Limited v OHIM*, joined cases T-117/03 to T-119/03 and T-171/03.

applies even where the goods are only similar to a low degree. Applying the principle of interdependence, I consider that the similarity between the marks is sufficient to offset the low degree of similarity between the goods. This conclusion is reinforced by the high degree of inherent distinctive character possessed by the opponent's marks. Lastly, I consider that this finding applies even where the average consumer pays a higher degree of attention when selecting the goods at issue.

CONCLUSION

74. The opposition under section 5(2)(b) has been partially successful. Subject to any successful appeal, the IR is refused protection in the UK for the goods that I have found to be similar, namely:

Batteries, electric, for vehicles; battery jars; battery boxes; battery chargers; batteries, electric; accumulators, electric; mobile power supply [rechargeable batteries]; battery charging devices for motor vehicles

75. The opposition under section 5(2)(b) has failed in respect of the remaining goods. Subject to any successful appeal, the IR is permitted protection in the UK for the goods that I have found to be dissimilar, namely:

Charging stations for electric vehicles; solar batteries

COSTS

76. On balance, the opponent has enjoyed the greater degree of success in these proceedings. It is, therefore, entitled to a contribution towards its costs based upon the scale published in Tribunal Practice Notice 1/2023. That being said, I consider that any costs award should be reduced to reflect the partial success of the holder. In the circumstances, I award the opponent the following as a contribution towards its costs.

Preparing a statement and considering the other side's statement: £250

Official fees:

£100

Total:

£350

77. I hereby order CONTEMPORARY AMPEREX TECHNOLOGY CO., LIMITED to pay Tectran Mfg. Inc. the sum of £350. This sum should be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the final determination of the appeal proceedings.

Dated this 17th day of August 2026

Sarah Adam-Smith

For the Registrar