

O/0872/25

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00004023620
IN THE NAME OF CARTERX LLC
TO REGISTER THE FOLLOWING TRADE MARK:

CARTER^X

IN CLASSES 25 AND 35.

AND

IN THE MATTER OF OPPOSITION THERETO
UNDER NO. OP000446555
BY THE WILLIAM CARTER COMPANY

Background and pleadings

1. On 23 November 2023, CARTERX LLC (“the Applicant”) applied to register the trade mark shown on the cover page of this decision in the UK. The application was accepted and published in the Trade Marks Journal on 08 December 2023 in respect of the following goods and services: ¹

Class 25: Adults Clothing; Adults Headwear; Adults Footwear; but not including any clothing, headwear or footwear intended for infants or children.

Class 35: Retail and wholesale services in relation to dietary supplements; Retail services relating to food; Online advertising; Promotion, advertising and marketing of on-line websites; Online retail store services relating to adults clothing; but not including retail store and online services in the fields of clothing, footwear, and headwear for infants or children.

2. On 08 March 2024, Rajesh Talwar (“the Opponent”) opposed the application under Section 5(2)(b) ² of the Trade Marks Act 1994 (“the Act”). The partial opposition is directed against the following goods and services in the application:

Class 25: Clothing; Headwear; Parts of clothing, footwear and headgear; Clothing for leisure wear; Sports clothing; Outerwear; Footwear.

Class 35: Online retail store services relating to clothing.

3. The Opponent relies upon the following four marks:

CARTER'S

UK Registration no. UK00003007864 (“The ‘864 Mark”)

¹ The Applicant filed an acceptable TM21B form to restrict the specification. The restricted list of goods and services is therefore shown.

² The opposition was originally based on Sections 5(2)(b), 5(3) and 5(4)(a), however, due to the opponent not filing any evidence the Section 5(3) and 5(4)(a) grounds were struck out. This was communicated to the parties in writing on 25 September 2024.

Filing date: 30 May 2013

Date of registration: 30 August 2013

Relying upon the following services:

Class 35: Retail store and online services in the fields of clothing, footwear, and headwear for infants.

CARTER'S

UK Registration no. UK00913177241 ³ ("The '241 Mark")

Filing date: 15 August 2014

Date of registration: 06 March 2015

Relying upon the following services:

Class 35: Retail services, including online retail services, concerning bedding for infants, namely, crib sheets, blankets, towels and face cloths, bunting, clothing for infants and children, namely, underwear, swimwear, shirts, blouses, dresses, skirts, pants, slacks, shorts, coveralls, creepers, overalls, jackets, vests, sleepwear, bibs, shoes, headwear, booties, bonnets and slippers, children's toys and playthings, namely rattles and dolls.

CARTER'S

UK Registration no. UK00800916807 ("The '807 Mark")

Filing date: 06 September 2006

Date of registration: 25 February 2008

Relying upon the following goods:

³ Under Articles 54 and 56 of the Withdrawal Agreement between the UK and the EU, the UK IPO created comparable UK trade marks for all right holders with an existing registered EUTM or International Registration designating the EU. As a result, the opponent's mark was converted into a comparable UK trade mark. Comparable UK marks are now recorded in the UK trade mark register, have the same legal status as if they had been applied for and registered under UK law, and the original filing dates remain the same.

Class 25: Clothing for infants and children, namely, underwear, swimwear, shirts, blouses, dresses, skirts, pants, slacks, shorts, coveralls, creepers, overalls, jackets, vests, sleepwear, bibs, booties, bonnets, and slippers.

CARTER'S

UK Registration no. UK00000976984 ("The '984 Mark")

Filing date: 29 June 1971

Date of registration: 29 June 1971

Relying upon the following goods:

Class 25: Articles of clothing for children; bibs for infants.

4. By virtue of the earlier filing dates, the Opponent's above registrations constitute earlier marks within the meaning of section 6 of the Act. The earlier marks completed the registration process more than five years before the filing date of the application in issue, however, the Applicant did not request that the Opponent provide proof of used. The Opponent can, therefore, rely upon all of the goods and services it has identified without having to demonstrate use.
5. The Opponent submits that the marks are similar and that the goods and services are similar.
6. The Applicant filed a counterstatement within which it denied the claims made.
7. On 22 June 2024 an acceptable TM21B form was submitted by the Applicant resulting in a restricted specification. On 01 July 2024 a letter asking the Opponent to confirm whether the amendment to the specification would allow the opposition to be withdrawn was sent by the Tribunal, however no response was received. Subsequently, on 22 July 2024 a letter confirming that, due to the non-response of the Opponent, the opposition was to be maintained against the newly restricted specification was sent to the parties.

8. Neither party filed evidence. Neither party requested a hearing, however both parties filed submissions in lieu. This decision is taken following a careful consideration of the papers.
9. The Applicant is represented by Paul Wyber; the Opponent is represented by HGF Limited.
10. 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

Section 5(2)(b)

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

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

(a) ...

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

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

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.”

12. The following principles are gleaned from the decisions of the EU courts in *Sabel BV v Puma AG*, Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, *Matratzen Concord GmbH v OHIM*, Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C-120/04, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P and *Bimbo SA v OHIM*, Case C-591/12P.

(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; Page 8 of 20

(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 goods and services

13. The goods and services for comparison are as follows:

Opponent's goods and services	Applicant's goods and services
<p style="text-align: center;">("The '864 Mark")</p> <p><u>Class 35:</u> Retail store and online services in the fields of clothing, footwear, and headwear for infants.</p>	<p><u>Class 25:</u> Adults Clothing; Adults Headwear; Adults Footwear; but not including any clothing, headwear or footwear intended for infants or children.</p>
<p style="text-align: center;">("The '241 Mark")</p> <p><u>Class 35:</u> Retail services, including online retail services, concerning bedding for infants, namely, crib sheets, blankets, towels and face cloths, bunting, clothing</p>	<p><u>Class 35:</u> Online retail store services relating to adults clothing; but not including retail store and online services in the fields of</p>

<p>for infants and children, namely, underwear, swimwear, shirts, blouses, dresses, skirts, pants, slacks, shorts, coveralls, creepers, overalls, jackets, vests, sleepwear, bibs, shoes, headwear, booties, bonnets and slippers, children’s toys and playthings, namely rattles and dolls.</p>	<p>clothing, footwear, and headwear for infants or children.</p>
<p style="text-align: center;">(“The ‘807 Mark”)</p> <p><u>Class 25:</u> Clothing for infants and children, namely, underwear, swimwear, shirts, blouses, dresses, skirts, pants, slacks, shorts, coveralls, creepers, overalls, jackets, vests, sleepwear, bibs, booties, bonnets, and slippers.</p>	
<p style="text-align: center;">(“The ‘984 Mark ”)</p> <p><u>Class 25:</u> Articles of clothing for children; bibs for infants.</p>	

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

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

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

- a. The respective uses of the respective goods or services;
- b. The respective users of the respective goods or services;
- c. The physical nature of the goods or acts of service;
- d. The respective trade channels through which the goods or services reach the market;
- e. In the case of self-serve consumer items, where in practice they are respectively found or likely to be found in supermarkets and, in particular, whether they are or are likely to be found on the same or different shelves;
- f. The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance, whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.

16. The Opponent submits that its various “clothing for infants and children” in class 25 of its respective registrations are similar to the Applicant’s “clothing, headwear and footwear for adults” to a high degree. Additionally, it submits that its “retail store and online services in the fields of clothing and footwear” encompasses the Applicant’s “online retail store services relating to adults clothing” and is therefore identical, and that in any event, retail services in connection with children's clothing and retail services in connection with adult's clothing are similar to a high degree.

17. The Applicant, on the other hand, states that the goods and services are distinctly separate. It claims that the Opponent’s mark is strictly a brand for infants’ and children’s clothing and that its mark is a brand for athletic adults. Additionally, it

states that its specification specifically excludes infants' and children's items to avoid overlap.

Class 25

Adults Clothing; Adults Headwear; Adults Footwear; but not including any clothing, headwear or footwear intended for infants or children

18. The Applicant's goods in class 25 of its specification are clothing, headwear and footwear for adults. It also includes a limitation that effectively excludes these same goods but for infants and children. The Opponent's goods on the other hand are all limited to various articles of clothing for children. However, notwithstanding the exclusion, I find that the respective goods are similar to a high degree. There is an overlap in nature, method of use, and purpose of the goods. Both the Opponent's and the Applicant's goods are clothing, albeit being different in size, and both are intended to be worn on the body for practical and fashionable purposes. Additionally, there is an overlap in channels of trade as both sets of goods are sold through clothing retail stores, as well as online. Further, the Opponent submits that it is generally accepted that it is common for clothing manufacturers to produce both clothing for adults, as well as for infants and children. This submission aligns with my own understanding and therefore I agree. Whilst there is an absence of complementarity, and the goods are not directly in competition with one another (it is unlikely an adult would buy children's clothing for themselves due to obvious sizing issues), they are still highly similar.

Class 35


Online retail store services relating to adults clothing; but not including retail store and online services in the fields of clothing, footwear, and headwear for infants or children.

19. As stated above, the Opponent claims that the Applicant's services are identical to its "Retail store and online services in the fields of clothing, footwear". However, the full term from the Opponent's 864 mark is "Retail store and online services in the fields of clothing, footwear, **and headwear for infants** (my emphasis). In that

regard, I consider the ‘for infants’ element of the term applies equally to the retail of the clothing and footwear goods of the Opponent’s term as it does to the retail of the ‘headwear’ goods, with the net result being that all of the goods listed being retailed are for infants. Consequently, I do not agree with the Opponent that the services are identical. Despite this, I find that the services are highly similar to one another in that there is an overlap in nature, purpose, and method of use. There is also an overlap in user as it is likely that adults of the general public will be the primary user of the services irrespective of whether the goods being retailed are for children or adults. Like the goods in class 25, there is no complementarity or direct competition between the services. However, in the same way that it is common for clothing manufacturers to produce children’s and adults clothing, it is also my understanding that many clothing retailers sell both children’s and adults clothing too.

Comparison of the marks

20. The respective trade marks pleaded under 5(2)(b) are shown below:

Earlier trade mark	Contested trade mark
<p>CARTER'S ("The '864 Mark)</p>	
<p>CARTER'S ("The '241 Mark)</p>	
<p>CARTER'S ("The '807 Mark")</p>	
<p>CARTER'S ("The '984 Mark")</p>	

21. It is clear from the table above that the Opponent’s four marks are identical, and I will therefore assess the word CARTER’S against the Applicant’s mark.

22. The Opponent submits that visual impression of both marks is dominated by “CARTER” meaning the marks are visually similar to a high degree. The Opponent also claims that the marks coincide in the pronunciation of the word “CARTER” and that the pluralisation of the Opponent’s mark is insignificant, as is the additional letter “x” in the Applicant’s mark. Further the Opponent states that it is unlikely that the “x” in the Applicant’s mark will be pronounced given its relative placement and size. As a result, the Opponent submits that the marks are aurally similar to a high degree. Finally, the Opponent states that conceptually both marks will be viewed as the name “CARTER” and therefore they are conceptually identical.
23. The Applicant submits that the Opponent’s mark is possessive and includes an apostrophe, whereas its mark is a single, uppercase word with a distinctive “to the power of X” impression. As a result, it states that the visual differences in formatting and styling ensures no reasonable consumer would mistake one for the other. Next, the Applicant submits that the pronunciation of both marks is significantly different, with the Opponent’s mark consisting of two syllables and its mark consisting of three. Finally, the Applicant claims that the marks possess different concepts in that the Opponent’s mark implies ownership or possession e.g., belonging to CARTER, and its mark conveys a unique, modern brand identity with no possessive connotation.

Overall Impression

24. The Opponent’s mark consists of the single word “CARTER’S”. There are no other elements in the mark to contribute to its overall impression, which lies in the word itself. The Applicant’s mark consists of the word “CARTER^x” Whilst the “^x” symbol is noticeable I consider the overall impression is dominated by the word CARTER, with the “^x” symbol playing a lesser role in the mark as a whole.

Visual Impression

25. Visually, the element that overlaps in the marks is the word CARTER. The Opponent’s mark contains an additional apostrophe and the letter ‘S’, neither of which are present in the Applicant’s mark. The Applicant’s mark contains a smaller

letter 'X' to the top right of the final letter R, in a position similar to where the apostrophe is found in the Opponent's mark. Bearing in mind the overall impression of the marks, I find there to be a high degree of visual similarity.

Aural Impression

26. Aurally, the CARTER element of both the Opponent's and Applicant's marks will be articulated identically. The Opponent's mark includes an additional 's' sound at the end due to the pluralisation. The addition of the 'x' at the end of the Applicant's mark, in my view, would be pronounced by the consumer and therefore includes an additional syllable. However, bearing in mind the overall impression of the marks, I find them to be aurally similar to a high degree.

Conceptual Impression

27. Conceptually, both marks will be recognised simply as the forename or surname Carter, albeit with the Opponent's mark being the possessive version of the same. The additional 'x' in the Applicant's mark does not convey an immediately identifiable concept and consequently I consider the marks to share an identical concept. However, if I am wrong in this finding of conceptual identity, I still consider the marks to be conceptually similar to at least a high degree. The Opponent's mark, being the possessive version of the name, may, in the mind of some consumers, create a slight conceptual difference, namely that it signifies that something belongs to someone with the name Carter. Nevertheless, I find that the shared use of the name Carter gives rise to a shared common theme or root⁴ and as such the marks are similar to at least a high degree.

Average consumer and the purchasing act

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

⁴ *Georgine Ratelband v Walmart Apollo, LLC* (BL O/1212/23)

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

“The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The words “average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median.”

30. The goods at issue are ordinary consumer goods that will be selected by members of the general public at large. The goods will likely be sold through a range of retailers and their online equivalents. In physical retailers, the goods at issue will be displayed on shelves or racks, where they will be viewed and self-selected by the consumer. A similar process will apply to online sales, where the consumer will select the goods having viewed an image displayed on a webpage. The selection of the goods at issue will, therefore, be primarily visual. That being said, I do not discount aural considerations in the form of advice sought from sales assistants or word of mouth recommendations. The goods will be selected relatively frequently and will vary in cost. Regardless of the price of the goods, the average consumer will still give consideration to various factors such as size, current fashion trends, materials used, suitability and durability. The services will be selected after inspection of premises, websites or, for example, online searches. The choice of services will be influenced by factors such as the range of goods on offer, knowledge of staff and potentially factors such as the ethical practices of the retailer. These are relatively ordinary considerations and, as a result, I find that the

average consumer will select the goods and services at issue whilst paying a medium degree of attention.

Distinctive character of the earlier trade mark

31. The distinctive character of a trade mark can be appraised only, first, by reference to the goods and services in respect of which registration is sought and, secondly, by reference to the way it is perceived by the relevant public – *Rewe Zentral AG v OHIM (LITE)* [2002] ETMR 91. In *Lloyd Schuhfabrik*, 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).”

32. 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. The opponent has not claimed that its mark has acquired an enhanced degree of distinctiveness and did not file any evidence to that effect. As such, I have only the inherent position to consider.

33. Earlier in this decision I found the Opponent's mark will be considered as the possessive use of the surname 'CARTER'. I do not consider the use of a surname in respect of goods and services to be particularly distinctive inherently, however, I also note the mark is not allusive nor is it descriptive of the goods or services. I consider the earlier mark to hold a medium level of inherent distinctiveness.

Likelihood of confusion

34. I must now feed all of my earlier findings into the global assessment of the likelihood of confusion, keeping in mind the following factors: i) the interdependency principle, whereby a lesser degree of similarity between the goods or services may be offset by a greater similarity between the marks, and vice versa (*Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*); ii) the principle that the more distinctive the earlier mark is, the greater the likelihood of confusion (*Sabel BV v Puma AG*), and; iii) the factor of imperfect recollection i.e. that consumers rarely have the opportunity to compare marks side by side but must rather rely on the imperfect picture that they have kept in their mind (*Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V.*).

35. There are two types of confusion that may occur. Direct confusion is where the average consumer mistakes one mark for the other, while indirect confusion is where the average consumer recognises that the marks are different, but for some reason assumes that the later mark also identifies the goods or services of the owner of the earlier mark, or that the two undertakings are related: see *L.A. Sugar Limited v Back Beat Inc*, BL O/375/10, paragraph 16.

36. Throughout the course of this decision, I have determined that:

- The respective goods and services are highly similar.

- The average consumers are members of the general public at large who will demonstrate a medium level of attention during the purchasing process.
- The purchasing process for the goods and services will be primarily visual in nature, though aural considerations have not been excluded.
- The opponent's mark possesses a medium degree of inherent distinctive character.
- The marks at issue are visually similar to a high degree. The marks are aurally similar to a high degree. The marks are conceptually identical, or similar to at least a high degree if my finding of conceptual identity is incorrect.

37. The Opponent's mark consists exclusively of the word 'CARTER'S', with no additional stylisation or figurative elements. The Applicant's mark contains the dominant distinctive element 'CARTER' followed by a small 'x' which plays a lesser role in the mark. As indicated in *Kurt Geiger v A-List Corporate Limited* BL O-075-13, the likelihood of confusion is increased if the distinctive character resides in the element of the marks that are identical or similar. Thus, considering the overall high levels of visual and aural similarity between the competing marks, as well as the conceptual identity, I am of the view that the minor differences created by the possessive version of the surname in the Opponent's mark and the small 'x' at the end of the Applicant's mark are likely to be overlooked by average consumers. Such differences are likely to be insufficient to distinguish the Applicant's goods and services from those of the Opponent. Considering the principle of imperfect recollection, it is entirely foreseeable that the average consumer, even when demonstrating a medium level of attention during the purchasing process, will not recall the respective marks with sufficient accuracy in order to differentiate between them. Consequently, I find that there is a likelihood of direct confusion.

CONCLUSION

38. The opposition based upon 5(2)(b) has succeeded in relation to the following goods and services:

Class 25: Adults Clothing; Adults Headwear; Adults Footwear; but not including any clothing, headwear or footwear intended for infants or children.

Class 35: Online retail store services relating to adults clothing; but not including retail store and online services in the fields of clothing, footwear, and headwear for infants or children.

39. The application may proceed for the unopposed services, namely:

Class 35: Retail and wholesale services in relation to dietary supplements; Retail services relating to food; Online advertising; Promotion, advertising and marketing of on-line websites.

COSTS

40. The Opponent is therefore entitled to a contribution towards its costs based upon the scale published in Tribunal Practice Notice (“TPN”) 1/2023. Applying the guidance in the TPN, I consider the following to be fair:

Official Fee ⁵ :	£100
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Preparing the notice of opposition and considering the counterstatement	£250
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⁵ As noted at footnote 2, the original opposition was based on Sections 5(2)(b), 5(3), and 5(4)(a) however both the Sections 5(3) and 5(4)(a) were struck out due to the Opponent not filing any evidence. As a result, the opposition proceeded on the basis of Section 5(2)(b) alone, and therefore I have reduced the official fee from £200 to £100.

Written submissions in lieu	£350
Total:	£700

41. I therefore order **CARTERX LLC** to pay **The William Carter Company** the sum of £700. The above sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 23rd day of September 2025

Oliver Rose'Meyer
For the Registrar