O/0873/25

TRADE MARKS ACT 1994

CONSOLIDATED PROCEEDINGS

IN THE MATTER OF APPLICATION NUMBERS 3750696 AND 3750718

IN THE NAME OF NFL PROPERTIES LLC

TO REGISTER THE FOLLOWING TRADE MARKS:

COMMANDERS

IN CLASS 9

AND CONSOLIDATED OPPOSITIONS THERETO UNDER NUMBERS 435887 and 435888

BY

PETER JÄCKEL KOMMUNIKATIONSSYSTEME GMBH

Background and pleadings

1. NFL PROPERTIES LLC ("the Applicant"), has applied for two trade marks (collectively "the contested marks") in the UK, the details of which are as follows:

UKTM no. 3750696

("the '696 mark")

COMMANDERS

Filed on 03 February 2022 and published on 03 June 2022 for the following goods in class 9:

Mobile phone covers; protective covers for smartphones and handheld computing devices.

UKTM no. 3750718

("the '718 mark")

Filed on 03 February 2022 and published on 03 June 2022 for goods in class 9:

Mobile phone covers; protective covers for smartphones and handheld computing devices

2. Each application is opposed by Peter Jäckel Kommunikationssysteme GmbH ("the opponent") under section 5(2)(b) of the Trade Marks Act 1994 ("the Act"). It relies on the following trade mark registration for the purpose of each of its oppositions:

UKTM no. 916233272

("the earlier mark")

Commander

Filed: 09 January 2017

Registered: 28 April 2017

Class 9 - Cell phone covers; Covers for smartphones; Covers for tablet computers; Covers for personal digital assistants [PDAs]; Cases adapted for mobile phones; Cases for telephones; Cases for PDAs; Cases for tablet computers[1]

3. Under section 5(2)(b) of the Act, the opponent claims that as a result of the similarity between the marks and the identity/similarity of goods, there exists a likelihood of confusion, including a likelihood of association, as between the respective marks on the part of the relevant public.

4. The applicant filed a defence and counterstatement denying the claims made by the opponent. The applicant submits "the opposition is brought only under s.5(2)(b) of the Trade Marks Act 1994. The applicant argues that there is insufficient similarity between the marks to support a likelihood of confusion".

5. In accordance with section 6 of the Act, the marks relied upon by the opponent are considered earlier marks. The marks have not been registered for five years at the date of application for the contested marks and so, in accordance with section 6A of the Act, they are not subject to proof of use; the opponent may rely upon all the goods as identified.

Representation

6. The opponent is represented by IRLE MOSER RECHTSANWÄLTE PARTG. The applicant is represented by Keystone Law Limited[2]. Neither party requested a hearing,

[1] The opponent only wishes to rely upon some of the goods listed within their specification, which have been reproduced here.
[2] The holder's representatives were changed from Irwin Mitchell LLP to Keystone Law Limited when a TM33 was filed on 01/08/24.

but both the opponent filed written submissions in lieu dated 10 June 2024 and 18 November 2024 respectively, and the applicant filed written submissions in lieu dated 24 September 2024. These submissions will not be summarised but will be referred to as and where appropriate during this decision. This decision is taken following a careful perusal of the papers.

Relevance of EU LAW

7. 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)

8. Section 5(2)(b) of the Act is as follows:

> "5(2) A trade mark shall not be registered if because-
>
> (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".

9. 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."

Relevant law

10. The following principles are gleaned from the decisions of the Court of Justice of the European Union ("CJEU") 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 C120/04, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P and *Bimbo SA v OHIM*, Case C-591/12P.

The principles

(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 goods

11. The competing goods and services are shown in the table below:

The earlier mark	**The contested mark**
Class 9 - Cell phone covers; Covers for smartphones; Covers for tablet computers; Covers for personal digital assistants [PDAs]; Cases adapted for mobile phones; Cases for telephones; Cases for PDAs; Cases for tablet computers	The '696 mark Class 9 - Mobile phone covers; protective covers for smartphones and handheld computing devices. The '718 mark

	Class 9 - Mobile phone covers; protective covers for smartphones and handheld computing devices

The ‘696 mark

12. Within their TM7 dated 28 November 2022, the opponent submitted that “as for the protected goods, the earlier mark is registered for, inter alia, (Class 9) Cell phone covers; Covers for smartphones; Covers for tablet computers; Covers for personal digital assistants [PDAs]; Cases adapted for mobile phones; Cases for telephones; Cases for PDAs; Cases for tablet computers (Class 9). The applicant’s mark is registered for, inter alia, mobile phone covers; protective covers for smartphones and handheld computing devices (Class 9). Therefore, the goods in question are also identical or at least highly similar”. The applicant, within their TM8 of 21 February 2024, confirmed that this paragraph of the TM7 is admitted.

The ‘718 mark

13. Within their TM8 dated 5 December 2023, the applicant admitted that “the compared goods are identical”.

14. As the applicant has admitted that the goods are either identical, or at least highly similar, I will proceed on the basis of that admission and will not undertake a further comparison against the opponent’s remaining goods as relied upon.

Average Consumer and the purchasing act

15. It is necessary for me to determine who the average consumer is for the respective parties’ goods. I must then determine the manner in which the goods are likely to be selected by the average consumer. 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. (as he then was) described the average consumer in these terms:

> "60. 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 word "average" denotes that the person is typical. The term "average" does not denote some form of numerical mean, mode or median."

16. The parties have not made any submissions in regards to the average consumer and I will therefore proceed to make my own assessment. The average consumer of the respective goods will be the general public at large. The goods will be selected on a relatively infrequent basis and are relatively inexpensive. Consideration will be given to factors such as price, design and the protective nature of the product. Consequently, I consider that a medium degree of attention will be paid.

17. The goods will, for the most part, be available via retailers, being both general retailers and more specialist ones, and their online or catalogue equivalents. At the retailers' physical premises, the goods will be displayed on shelves and self-selected by the consumer. A similar process will apply when the goods are selected online or via catalogues, in that a consumer will select them after seeing an image, be that on a webpage or in a catalogue. In my view, the visual component will dominate all methods of sale, although I do not discount an aural component playing a part in the form of word of mouth recommendations and advice from sales assistants.

Comparison of marks

18. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The Court of Justice of the European Union stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

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

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

20. The respective trade marks are shown below:

Earlier trade mark	**Contested trade mark**
COMMANDER	The '696 mark: COMMANDERS The '718 mark: 

21. The opponent submits as follows:

> "The signs in question are highly similar to a degree that by itself already constitutes a likelihood of confusion. The global appreciation of the visual, aural and conceptual similarity of the marks in question must be based on their overall impression given by the marks, bearing in mind, in particular, their distinctive and dominant components (EuGH C-251/95, Sabèl). Considering this, the visual and aural comparison show a very high degree of similarity".

22. In respect of the '696 mark, the applicant submits:

> "12. Concerning the Applicant's word mark, application UK00003750696, the Opponent asserts that the word commander is spelt identically in its Commander mark and the Applicant's COMMANDERS mark. That, of course, is not correct in view of the final 'S' in the Applicant's mark – a point that the Opponent concedes, "…the difference between the sings [sic – 'signs' is clearly intended] is the addition of a plural 'S'…" (Paragraph I, 1(a) of the Opponent's Submissions).
>
> 13. The presence of the 'S' in COMMANDERS should not be so readily dismissed as de minimis in this particular instance. The word commander is a dictionary word with the meaning of "a person in authority, especially over a body of troops or a military operation." Interestingly, the tendency is to use the word in the singular. There is usually only one commander, or person in such authority. The pluralisation of the word commander as COMMANDERS is therefore a lexically unusual form of the word, unlike most plurals of nouns. The use of the plural form, COMMANDERS, by the Applicant is unusual and, of course, alludes to the fact conceptually that the mark refers to members of a (sports) team. This assists in distinguishing the compared marks to a degree substantially significant to avert confusion."

23. In respect of the '718 mark, the applicant submits:

> "The Applicant's Figurative Mark contains a substantial amount of additional verbal material in addition to the word COMMANDERS; however, the Opponent strives to ignore this. The verbal content of the Applicant's Figurative Mark is in fact: "WASHINGTON FOOTBALL EST. 1932 W COMMANDERS 1937 • 1942 • 1983 • 1988 • 1992". This, combined with the use of concentric roundel devices, three star devices, a stylised letter 'W' and shading of quadrants within the inner roundel, gives the opposed mark a distinctly different visual appearance to the Opponent's earlier mark"

Overall Impression

24. The earlier mark is a word only mark consisting of the nine-letter word, COMMANDER. There are no additional elements to the earlier mark and therefore the overall impression lies in the word itself.

The ‘696 mark

25. The 696 mark is a word only mark consisting of the ten-letter word, COMMANDERS. There are no additional elements to the contested mark and therefore the overall impression lies in the word itself.

The ‘718 mark

26. The 718 mark is a figurative mark which contains a number of elements. It is presented as a black and white roundel, with the inner circle being split into quadrants, two with a black background, and two with a white, which are presented diagonally to each other. Against the two white quadrants in the top left and bottom right are ‘Est 19’ and ‘32’ respectively in a black font. The top right black quadrant contains a white ‘W’ and the bottom left black quadrant contains three white stars. The word COMMANDERS runs horizontally through the middle of the quadrants and is presented in a white font set against a black background, with a white line above and below the word which serves to outline it. The inner circle is framed by another black circle, and curved above the device are the words ‘WASHINGTON FOOTBALL’ and below the device are the years ‘1937 • 1942 • 1983 • 1988 • 1992’ in black font. Finally, there is an additional black circle around this. The font used throughout the device is unremarkable.

27. The overall impression resides in the combination of these elements, with the consumer’s eye most likely to be drawn to the word COMMANDERS (given its size) and (secondly) the words WASHINGTON FOOTBALL. The numbers ‘1937 • 1942 • 1983 • 1988 • 1992’, simply indicate dates, and will play only weak roles in the overall impression of the mark.

Comparison between the ‘696 mark and the earlier mark

28. Both marks are word only marks. Visually, the competing marks are similar to the extent that they share the word COMMANDER. The only difference in the marks is

the use of an 'S' at the end of the contested mark. As a general rule the beginning of a mark tends to have more focus, as per *El Corte Inglés, SA v OHIM*[3] and this element of the marks will be the consumer's focus when considering the marks. I consider there to be a high degree of visual similarity between the marks.

29. The earlier mark comprises of the word COMMANDER, and would be read as such, whereas the contested mark is COMMANDERS. Being ordinary English dictionary words they will be pronounced in the normal way. I note that both marks are made up of three syllables. The point of aural overlap lies in the beginning of the word, as the words are pronounced identically aside from the 'S' at the end of the contested mark. I consider the marks to be aurally similar to a high degree.

30. This assessment of conceptual similarity must be made from the point of view of the average consumer. The opponent submits that "the word commander is a dictionary word with the meaning of "a person in authority, especially over a body of troops or a military operation". I agree with this submission. The word COMMANDERS is the plural of COMMANDER and shares the same meaning. Therefore, the concept of the two marks is shared. I find that there is a high degree of conceptual similarity between the marks.

Comparison between the '718 mark and the earlier mark

31. Visually, the marks are notably different, in that the applicant's mark has striking device elements, as above, in comparison to the opponent's word only mark. However, the opponent's earlier mark features in its entirety within the applicant's mark. Taking account of the overall impressions of the marks I find them visually similar to a low degree.

32. No consideration will be given to the stylisation or devices when the marks are pronounced. The earlier mark comprises of the word COMMANDER, which also appears in the applicant's mark, albeit in its plural form, COMMANDERS. These words will be pronounced identically aside from the 'S' at the end of the contested mark. The

[3] Cases T-183/02 and T-184/02

contested mark also contains the words WASHINGTON FOOTBALL which are additional words that do not appear in the earlier mark and may be verbalised. The contested mark will therefore be read as WASHINGTON FOOTBALL COMMANDERS. I consider that the other elements of the applicant's mark, such as the 'W', 'Est 1932' and the dates '1937 • 1942 • 1983 • 1988 • 1992', will not be verbalised. Taking these factors into account I find there is a low to medium degree of aural similarity between the marks.

33. A conceptual message must be capable of immediate grasp by the average consumer. I have made a finding regarding the conceptual meaning of the earlier mark at paragraph 30 above. I apply the same here. The opponent does not make any specific submissions regarding the conceptual similarity of the marks. The applicant submits:

> "Conceptually, the Applicant's Figurative Mark clearly indicates a connection with a football team in Washington, a date of establishment, and dates notable in its history. The mark's overall feel is one of a sports team's emblem or crest. The impression is therefore very different from the Opponent's mark which has the meaning of merely of someone, or something, in charge; or of a military rank."

I consider that the presence of the word COMMANDER/S brings to mind military connotations and that this is shared across both marks. I accept that the contested mark will be perceived as the crest/emblem of a football club as the words, WASHINGTON FOOTBALL, indicate that the goods are provided by, or with the consent of, a football club in Washington. The figurative roundel design of the mark, including the dates of establishment, also contribute to this overall impression. I therefore find that due to both marks using the word COMMANDER, they are conceptually similar to a medium degree.

Distinctive character of the earlier trade mark

34. 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 *WindsurfingChiemsee* 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).”

35. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods or services, to those with high inherent distinctive character, such as invented words which have no allusive qualities. The distinctiveness of a mark can be enhanced by virtue of the use that has been made of it. The opponent has not pleaded that its mark has obtained an enhanced level of distinctiveness and no evidence has been filed to that effect. Therefore, I only have the inherent position to consider.

36. The opponent’s word only mark consists of the word COMMANDER. The word is a widely used dictionary word to the average consumer in the UK. Being a dictionary word which is not descriptive or directly allusive of the goods, I consider the earlier mark to be inherently distinctive to a medium degree.

Conclusions on Likelihood of Confusion

37. 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.

38. There is no scientific formula to apply in determining whether there is a likelihood of confusion; rather, it is a global assessment where a number of factors need to be borne in mind. The first is the interdependency principle, i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective goods and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the opponent's trade mark, the average consumer for the goods and the nature of the purchasing process. In doing so, I must be alive to the fact that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them that he has retained in his mind.

39. I have found as follows:

- The respective goods are either identical or highly similar;
- I have identified that the average consumer will be members of the general public. They will select the goods primarily by visual means, although I do not discount an aural component;
- I have concluded that a medium degree of attention will be paid;
- The '696 mark and the earlier mark are visually, aurally and conceptually highly similar.
- The '718 mark and the earlier mark are visually similar to a low degree, aurally similar to between a low and medium degree, and conceptually similar to a medium degree.
- I have found the earlier mark overall to be inherently distinctive to a medium degree;

40. Dealing with the ‘696 mark first, I consider this represents an example of direct confusion. Having found that the marks are highly similar visually, aurally and conceptually for goods that are accepted as being either identical or highly similar by the applicant, I consider that average consumers will imperfectly recall the marks and mistake one for the other. I consider that the consumer, upon seeing the later mark, COMMANDERS, is unlikely to recall the minor differences with the earlier mark, COMMANDER, given that there is only one letter difference in the marks and the difference is to the end of the word. I also take into consideration that the average consumer will not compare the marks side by side. Consequently, I consider there to be a likelihood of direct confusion for all goods in the ‘696 application.

41. Turning to the ‘718 mark, taking the above into account and bearing in mind the principle of imperfect recollection, I do not consider that consumers would misremember or inaccurately recall which mark was which. Even though the word COMMANDER appears in both marks, albeit it appears in the plural in the contested mark, consumers will be aware of the differing elements between the marks when recalling them and, therefore, will not confuse one for the other. Consequently, I do not consider that there exists a likelihood of direct confusion between the marks, even on identical goods.

42. This leads me on to consider indirect confusion. In *L.A. Sugar Limited v By Back Beat Inc*, BL O/375/10, Mr Iain Purvis Q.C., as the Appointed Person, explained that:

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

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

(a) where the common element is so strikingly distinctive (either inherently or through use) that the average consumer would assume that no-one else but the brand owner would be using it in a trade mark at all. This may apply even where the other elements of the later mark are quite distinctive in their own right ('26 RED TESCO' would no doubt be such a case).

(b) where the later mark simply adds a non-distinctive element to the earlier mark, of the kind which one would expect to find in a sub-brand or brand extension (terms such as 'LITE', 'EXPRESS', 'WORLDWIDE', 'MINI' etc.).

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

43. These three categories are not exhaustive; rather, they were intended to be illustrative of the general approach, as has been confirmed by the Court of Appeal[4]. I recognise that a finding of indirect confusion should not be made merely because the competing marks share a common element. In this connection, it is not sufficient that a mark merely calls to mind another mark; this is mere association not indirect confusion[5]. The Court of Appeal has also emphasised that, where there is no direct confusion, there must be a "proper basis" for finding indirect confusion.

44. For indirect confusion to arise the average consumer must consider that as a result of the common element, there is an economic connection between the respective marks, such that the goods provided under one are regarded as a brand extension or sub brand of the other, for example.

45. I consider that this is a case of indirect confusion. The earlier mark is a word only mark and has no other distinguishing text element. The earlier mark is reproduced in its entirety within the contested mark, and it is in a prominent position within the device,

[4] *Liverpool Gin Distillery and others v Sazerac Brands, LLC and others* [2021] EWCA Civ 1207
[5] *Duebros Limited v Heirler Cenovis GmbH,* BL O/547/17

being central to the device and the largest text element (albeit pluralised). Given that there are no other distinguishing elements to the earlier mark, such as a geographical indicator which might indicate a different sports team by the name COMMANDER, it is foreseeable that the average consumer would consider the contested mark to be a brand extension or sub-brand of the opponent. It is not uncommon for businesses to use a word only version of the mark, as well as a logo form, and the average consumer is likely to misremember the words COMMANDER/COMMANDERS. Therefore, when considering the contested mark, and taking account of the common element in the context of the mark as a whole, the consumer is likely to conclude that both marks arise from the same or economically linked undertakings. As a result of this, I find a likelihood of indirect confusion.

Conclusion

46. The oppositions have succeeded in their entirety under section 5(2)(b) against both the '696 and '718 marks.

Costs

47. The opponent has been successful and is entitled to a contribution towards its costs. Award of costs in proceedings are based upon the scale as set out in Tribunal Practice Note 1/2023. In making this award, I have borne in mind that whilst the opponent filed two Notice of oppositions and had to consider two counterstatements, there was considerable overlap in each. In the circumstances I award the opponent the sum of £800.00 as a contribution towards the cost of the proceedings. The sum is calculated as follows:

Filing Notices of opposition and considering the applicant's counterstatements:	£250.00
Preparing written submissions	£350.00
Official fee (x2):	£200.00
Total:	**£800.00**

48. I therefore order NFL PROPERTIES LLC to pay Peter Jäckel Kommunikationssysteme GmbH the sum of £800.00. 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

L Bailey

For the Registrar