

O/0916/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00004182533

IN THE NAME OF NEW ORBIT SPACE LTD.

FOR THE FOLLOWING TRADE MARK:



IN CLASSES 9 AND 12

AND

AN OPPOSITION UNDER NO. OP000454861

BY

OCC ESTABLISHMENT

BACKGROUND AND PLEADINGS

1. NewOrbit Space Ltd. (“the applicant”) applied to register the trade mark shown on the cover of this decision (UK Trade Mark No: 4182533) in the UK on 1 April 2025. It was accepted and published in the Trade Marks Journal on 16 May 2025 in respect of the following goods:

Class 9 Satellites; Telecommunication satellites.

Class 12 Thrusters for vehicles; Spacecraft; Electric locomotives; Space vehicles; Vehicles for use in space; Vehicles (Space -).

2. On 25 June 2025, OCC Establishment (“the opponent”) partially opposed the trade mark on the basis of section 5(2)(b) of the Trade Marks Act 1994 (“the Act”) for those goods in Class 9. This is on the basis of its earlier comparable Trade Marks:¹

UK915179674 (“the figurative mark”)



Filing date: 3 March 2016

Registration date: 6 July 2016²

Priority date: 19 November 2015³

¹ The opponent’s mark is a comparable mark based on an earlier International Registration designating the EU (“IR”). On 1 January 2021, in accordance with Article 54 of the Withdrawal Agreement between the UK and the European Union, the UK IPO created comparable UK trade marks for all right holders with existing IR’s. These comparable marks enjoy the same filing and registration dates as their European counterparts.

² I note that this mark has now expired, but was a valid registered mark at the filing date of the applicant’s mark

³ Priority country: Jamaica. TM from which priority is claimed: 068669

Goods/services relied upon:

Class 9 Communications equipment, namely, equipment for receiving transmissions of television, radio, audio, video and data information delivered via satellite, global computer network, telecommunications network, wireless communication network, or other electronic or digital communications network or device; equipment for receiving transmissions broadcast via satellite, namely, radios, tuners, decoders, demodulators and receivers.

Class 38 Telecommunications services, namely, providing broadband internet access via satellite; television and radio broadcasting via satellite; telecommunication services, namely, transmission of television, radio, video, image, voice, audio, and data information via satellite, cable, wireless communication network, global computer network, fiber optics, or other electronic or digital communications network or device; provision of equipment for telecommunication services, namely, transmission of television, radio, video, image, voice, audio, and data information via satellite, cable, wireless communication network, global computer network, fiber optics, or other electronic or digital communications network or device.

UK915179625 (“the word mark”)

ORBIT

Filing date: 3 March 2016

Registration date: 6 July 2016

Priority date: 19 November 2015⁴

Goods/services relied upon:

Class 9 Communications equipment, namely, equipment for receiving transmissions of television, radio, audio, video and data information delivered via satellite, global computer network, telecommunications

⁴ Priority country: Jamaica. TM from which priority is claimed: 068670

network, wireless communication network, or other electronic or digital communications network or device; equipment for receiving transmissions broadcast via satellite, namely, radios, tuners, decoders, demodulators and receivers.

Class 38 Telecommunications services, namely, providing broadband internet access via satellite; television and radio broadcasting via satellite; telecommunication services, namely, transmission of television, radio, video, image, voice, audio, and data information via satellite, cable, wireless communication network, global computer network, fiber optics, or other electronic or digital communications network or device; provision of equipment for telecommunication services, namely, transmission of television, radio, video, image, voice, audio, and data information via satellite, cable, wireless communication network, global computer network, fiber optics, or other electronic or digital communications network or device.

3. The opponent argues that the Class 9 goods are identical or similar and that the marks are similar, resulting in a likelihood of conclusion.

4. The applicant filed a counterstatement denying the claims made and requesting that the opponent provides proof of use of its earlier trade marks relied upon.

5. The marks relied upon by the opponent qualify as 'earlier marks' in accordance with section 6 of the Act. They had been registered for more than five years at the filing date of the applicant's mark and are, therefore, subject to the proof of use requirements in section 6A of the Act.

6. The applicant is represented by Basck Limited. The opponent is represented by Haseltine Lake Kempner LLP. Both parties filed evidence. Neither party requested a hearing, however, both filed written submissions in lieu. 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.

EVIDENCE AND SUBMISSIONS

8. The opponent filed the witness statement of Mr Fouad Halawi, dated 16 June 2025, which is accompanied by nine exhibits (Exhibit FH1 – FH9). Mr Halawi is the CEO of Orbit Mobile Limited, which is an affiliated company within OCC Establishment, and he has provided evidence to show use of the opponent's marks.

9. The applicant filed the witness statement of Mr Alexander Kiermeier, dated 20 January 2026 which is accompanied by nine exhibits (Exhibit AK01 – AK05). Mr Kiermeier is the Chief of Staff of New Orbit Space Ltd, and he has provided evidence to support the application of the mark.

10. The applicant filed written submissions in lieu on 4 May 2026.

11. The opponent filed written submissions in lieu on 5 May 2026.

12. I have given due consideration to all of the documents filed but will only refer to the evidence/submissions as appropriate to the extent that is necessary in my decision.

PRELIMINARY ISSUES

13. The applicant provides details as to the background of the company and some of its activities in Mr Kiermeier's witness statement. These details will not have any impact on the outcome of these proceedings as the assessment that I must undertake under section 5(2)(b) is a notional one; the provisions of the Act are not merely a

reflection of what is happening in the market.⁵ When assessing the likelihood of confusion in the context of registering a new trade mark, it is necessary to consider all the circumstances in which the mark might be used if it were registered.⁶ My assessment under this ground must take into account only the contested mark, its specification, and any potential conflict with the earlier marks.

14. I note that Mr Kiermeier's witness statement also addresses the opponent's evidence of use. Whilst this is not evidence of fact, Mr Kiermeier's comments will be treated as submissions on the sufficiency of the opponent's evidence of use, which I will deal with as and where appropriate during my decision.

PROOF OF USE

15. The relevant statutory provisions are as follows:

“6A(1) This section applies where

- (a) an application for registration of a trade mark has been published,
- (b) there is an earlier trade mark of a kind falling within section 6(1)(a),
(aa) or (ba) in relation to which the conditions set out in section 5(1),
(2) or (3) obtain, and
- (c) the registration procedure for the earlier trade mark was completed
before the start of the relevant period.

(1A) In this section “the relevant period” means the period of 5 years ending with the date of the application for registration mentioned in subsection (1)(a) or (where applicable) the date of the priority claimed for that application.

(2) In opposition proceedings, the registrar shall not refuse to register the trade mark by reason of the earlier trade mark unless the use conditions are met.

⁵ *Compass Publishing BV v Compass Logistics Ltd* [2004] RPC 41

⁶ *O2 Holdings Limited, O2 (UK) Limited v Hutchison 3G UK Limited*, Case C-533/06, paragraph 66

(3) The use conditions are met if – (a) within the relevant period the earlier trade mark has been put to genuine use in the United Kingdom by the proprietor or with his consent in relation to the goods or services for which it is registered, or (b) the earlier trade mark has not been so used, but there are proper reasons for non-use.

(4) For these purposes – (a) use of a trade mark includes use in a form (the “variant form”) differing in elements which do not alter the distinctive character of the mark in the form in which it was registered (regardless of whether or not the trade mark in the variant form is also registered in the name of the proprietor), and (b) use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.

(5)-(5A) [Repealed]

(6) Where an earlier trade mark satisfies the use conditions in respect of some only of the goods or services for which it is registered, it shall be treated for the purposes of this section as if it were registered only in respect of those goods or services.”

16. As the opponent’s mark is a comparable mark, paragraph 7 of Part 1, Schedule 2A of the Act is also relevant. It reads:

“7.— (1) Section 6A applies where an earlier trade mark is a comparable trade mark (EU), subject to the modifications set out below.

(2) Where the relevant period referred to in section 6A(3)(a) (the “five-year period”) has expired before IP completion day—

(a) the references in section 6A(3) and (6) to the earlier trade mark are to be treated as references to the corresponding EUTM; and

(b) the references in section 6A(3) and (4) to the United Kingdom include the European Union.

(3) Where [IP completion day] falls within the five-year period, in respect of that part of the five-year period which falls before IP completion day —

(a) the references in section 6A(3) and (6) to the earlier trade mark are to be treated as references to the corresponding EUTM ; and

(b) the references in section 6A to the United Kingdom include the European Union”.

17. Section 100 of the Act states that:

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

18. I note that in his witness statement, Mr Halawi states as follows:

“8. It is noted that the Applicant is required to prove use in relation to the Marks and Goods and Services. I understand from my legal representatives that the following five-year periods apply:

- a. as the cancellation action was filed on 28 March 2025, a period in which the Applicant is required to show proof of use is 29 March 2020 - 28 March 2025; and
- b. as the Contested Registration was filed on 30 July 2024 with no priority claim, a period in which the Applicant is required to show proof of use is 30 July 2019 - 29 July 2024.

(collectively, the Relevant Period).”

19. I do not consider these dates to be correct. Firstly, these are not cancellation proceedings, and secondly, the filing date of the contested mark was 1 April 2025, not 30 July 2024. I find that the relevant period for assessing genuine use is the five-year period ending with the filing date of the application in issue, i.e. 2 April 2020 – 1 April 2025. As the earlier mark is a comparable mark, in accordance with schedule 2A of the Act previously set out, use in the EU up until 31 December 2020 (IP completion day) will be relevant.

20. In *easyGroup Ltd v Nuclei Ltd & Ors* [2023] EWCA Civ 1247, Arnold LJ summarised the law relating to genuine use as follows:

“105. The principles applicable to determining whether there has been genuine use of a trade mark have been considered by the CJEU in a considerable number of cases, the principal decisions being Case C-40/01 *Ansul BV v Ajax Brandbeveiliging BV* [2003] ECR I-2439, Case C-259/02 *La Mer Technology Inc v Laboratories Goemar SA* [2004] ECR I-1159, Case C-416/04 *P Sunrider Corp v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [2006] ECR I-4237, Case C-442/07 *Verein Radetsky-Order v Bundervsvereinigung Kamaradschaft 'Feldmarschall Radetsky'* [2008] ECR I-9223, Case C-495/07 *Silberquelle GmbH v Maselli-Strickmode GmbH* [2009] ECR I-2759, Case C-149/11 *Leno Marken BV v Hagelkruis Beheer BV* [EU:C:2012:816], Case C-609/11 *Centrotherm Systemtechnik GmbH v Centrotherm Clean Solutions GmbH & Co KG* [EU:C:2013:592], Case C-141/13 *P Reber Holding & Co KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [EU:C:2014:2089], Case C-689/15 *W.F. Gözze Frottierweberei GmbH v Verein Bremer Baumwollbörse* [EU:C:2017:434] and Joined Cases C-720/18 and C-721/18 *Ferrari SpA v DU* [EU:C:2020:854].

106. Ignoring issues which do not arise in the present case, such as use in relation to spare parts or second-hand goods and use in relation to a subcategory of goods or services, the principles may be summarised as follows:

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

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

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

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

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

(6) All the relevant facts and circumstances must be taken into account in determining whether there is real commercial exploitation of the mark, including: (a) whether such use is viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods and services in question; (b) the nature of the goods or services; (c) the characteristics of the market concerned; (d) the scale and frequency of use of the mark; (e) whether the mark is used for the purpose of marketing all the

goods and services covered by the mark or just some of them; (f) the evidence that the proprietor is able to provide; and (g) the territorial extent of the use: *Ansul* at [38] and [39]; *La Mer* at [22]-[23]; *Sunrider* at [70]-[71], [76]; *Centrotherm* at [72]-[76]; *Reber* at [29], [32]-[34]; *Leno* at [29]-[30], [56]; *Ferrari* at [33].

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

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

21. In *Awareness Limited v Plymouth City Council*,⁷ Mr Daniel Alexander QC (as he then was) as the Appointed Person stated that:

“22. The burden lies on the registered proprietor to prove use. [...] However, it is not strictly necessary to exhibit any particular kind of documentation, but if it is likely that such material would exist and little or none is provided, a tribunal will be justified in rejecting the evidence as insufficiently solid. That is all the more so since the nature and extent of use is likely to be particularly well known to the proprietor itself. A tribunal is entitled to be sceptical of a case of use if, notwithstanding the ease with which it could have been convincingly demonstrated, the material actually provided is inconclusive. By the time the tribunal (which in many cases will be the Hearing Officer in the first instance) comes to take its final decision, the evidence must be sufficiently solid and

⁷ BL O/236/13

specific to enable the evaluation of the scope of protection to which the proprietor is legitimately entitled to be properly and fairly undertaken, having regard to the interests of the proprietor, the opponent and, it should be said, the public.”

22. In *Dosenbach-Ochsner Ag Schuhe Und Sport v Continental Shelf 128 Ltd*, BL O/404/13, Mr Geoffrey Hobbs QC (as he then was), sitting as the Appointed Person stated that:

“22. When it comes to proof of use for the purpose of determining the extent (if any) to which the protection conferred by registration of a trade mark can legitimately be maintained, the decision taker must form a view as to what the evidence does and just as importantly what it does not ‘show’ (per Section 100 of the Act) with regard to the actuality of use in relation to goods or services covered by the registration. The evidence in question can properly be assessed for sufficiency (or the lack of it) by reference to the specificity (or lack of it) with which it addresses the actuality of use.”

23. What I take from this case law is that there is no requirement to produce any specific form of evidence. I must consider what the evidence as a whole shows me, and whether on this basis I can reasonably be satisfied on the balance of probabilities that there has been genuine use of the contested mark.

The Opponent’s Evidence

24. In his witness statement, Mr Halawi states that he has been acting as the CEO of Orbit Mobile Limited for around one year. He adds that:

“10. The Applicant was founded in 1994 and is part of the Orbit Group, a prominent group specializing in the communication, media, entertainment and technology sectors, and utilizing the Orbit since early 1990s. The Applicant is the entity that holds since its inception the Orbit trademarks for the Orbit Group. The Orbit Group notably owns and operates multiple television channels, radio

stations, and as well as they have connectivity and technology offerings which can be seen in their website: <https://occ.sa/en/web/occ.sa>.”⁸

25. I have before me, extracts from the opponent’s website.⁹ I note that the website states “Orbit Hospitality, providing technical solutions and content for TV to the hospitality industry”. The extract refers to Orbit hospitality, Orbit connectivity and Orbit metaverse (the latter is noted as ‘coming soon’). Both marks are shown in this exhibit; however, I note that the exhibit is undated.

26. I also have before me, two extracts from the opponent’s website taken from the Wayback Machine.¹⁰ These extracts are dated 23 October 2019 and 23 April 2020. I note that these extracts are taken from a ‘.net’ webpage and state:

“Fully owned by the Mawarid Group, the Orbit Group is a diversified media and communications company with investments in operations across sectors along the entire value chain. Loyal to its mission to “provide services to every home and business in the Arab world, the Orbit Group is committed to realise its vision to “create, manage and deliver content in all forms””. Orbit Group’s current investments include OSN, Media Gates and Orbit Data Systems. Among others, Orbit is affiliated with Integrated Telecom Company (ITC), a leading Saudi based telecom provider”.

I therefore do not consider this exhibit to be aimed at either UK or EU territories.

27. Mr Halawi has provided details of Orbit Mobile, which he explains operates a travel eSIM service. An extract of the Orbit Mobile website homepage has been provided.¹¹ I note that the webpage is in English and there is a British flag at the top right-hand side of the excerpt. However, the cost of the Global Pass is advertised as being \$120. Mr Halawi states within his statement “It is noted the United Kingdom is shown on the website as a “Top Destination””.¹² I interpret this as meaning that the UK is one of the destinations that you can travel to, using the global sim card. I note that France and

⁸ Witness statement of Mr Halawi

⁹ Exhibit FH2

¹⁰ Exhibit FH3

¹¹ Exhibit FH4

¹² Witness statement of Mr Halawi, para 14

Italy are also listed within the “top” destinations and other European countries are listed below. The webpage is undated.

28. Mr Halawi has also provided details of Orbit Group's on-demand TV service.¹³ This exhibit is undated and the programme titles appear in Arabic. A printout of the "About Us" section is also provided, in which the figurative mark is displayed.¹⁴ However, the contact section of this exhibit provides a list of telephone numbers for countries within the Middle East and Africa. I therefore do not consider that this is aimed at consumers within the UK or EU.

29. I have before me a selection of invoices which are dated between 25 December 2024 and 7 March 2025.¹⁵ Mr Halawi states that these invoices illustrate sales in respect of the Orbit Now (on-demand TV) package. All of these invoices are addressed to consumers within the Al-Sulaymaniyah District and are written in a mixture of English and Arabic. The currency is noted as being ‘SAR’, which I understand to be the currency of Saudi Arabia. I therefore do not consider that these invoices demonstrate sales to consumers within the UK or EU.

30. Mr Halawi makes the following statement regarding marketing expenditure:

“18. Some sample invoices and purchase orders demonstrating the investments made in promoting the Marks widely, over a sustained period, and through a variety of mediums are shown to me marked Exhibit FH8, in particular:

- 2,000,000 impressions through Partnership with "Passport Ads", the digital advertising solution offered by Expedia Group Media Solutions.
- Partnership with Mobilise, a provider of telecommunications software solutions.
- Partnership with INK, a company that provides passenger handling solutions for airlines, allowing the Marks to be promoted on boarding passes.

¹³ Exhibit FH5

¹⁴ Exhibit FH6

¹⁵ Exhibit FH7

- Partnership with Impact.com, an influencer marketing platform.
- Partnership with Media Unit dmcc, a marketing agent and content creator.
- Partnership with Ethos Interactive, a creative marketing consultancy.
- Partnership with Adjust, a digital marketing developer.
- Partnership with Hovi, a digital marketing services platform.”¹⁶

31. I have reviewed the invoices before me, provided under Exhibit FH8. A number of these are dated outside of the relevant period and cannot be taken into account. It is not clear that the invoices relate to marketing activities conducted within the UK/EU, as they are not in pound sterling and there are no details in the invoices/narrative evidence which point to that being the case. For example, the Expedia Group invoice for “passport ads” is aimed at the USA, Saudi Arabia, the UAE and the UK and EU. Although I accept that the opponent paid for “passport ads” and that an element of this related to activities in the UK/EU, the invoice is not broken down, and I am therefore unable to tell what element of these services will be attributable to the relevant territories. I note that the net value of the invoice is 10,000, although the invoice does not specify the currency. However, I have no way of knowing how much of the 10,000 should fairly be attributed to the relevant territories. The service also covered several areas with a large population, and I have no way of knowing what proportion of the 2m impressions were by consumers in the UK/EU. Further, there is a lack of detail about what the “passport ads” were, how this marketing was carried out (insofar as the UK/EU are concerned), and what would consumers have seen.

32. The only example in this exhibit which is clearly relevant and specific to the UK/EU are the Mobilise Technology invoices dated 30 November 2024 and 31 December 2024 (there is a further invoice which is dated 30 June 2025 and therefore falls outside of the relevant period). These are invoices for ‘set-up fees’ and amount to £38,460. I have no further evidence regarding this and there is no evidence as to what this

¹⁶ Witness statement of Mr Halawi, para 18

partnership entailed, including what promotion the marks received due to this partnership and paying these 'set up fees'.

33. I also have before me a print-out of the LinkedIn page for the opponent, which bears the figurative mark. I note that this refers to it being a media and telecommunications company with between 201-500 employees. The headquarters of the company is stated as being Riyadh. The 'about us' section of the page is written in English, however, all of the posts provided are written in Arabic.

ASSESSMENT OF EVIDENCE

34. Proven use of a mark which fails to establish that "the commercial exploitation of the mark is real" because the use would not be "viewed as warranted in the economic sector concerned to maintain or create a share in the mark for the goods or services protected by the mark" is, therefore, not genuine use.¹⁷

35. Whether the use shown is sufficient will depend on whether there has been real commercial exploitation of the mark, in the course of trade, sufficient to create or maintain a market for the goods/services at issue during the relevant five-year period. In making the assessment, I am required to consider all relevant factors, including:

- a. The scale and frequency of the use shown;
- b. The nature of the use shown;
- c. The goods/services for which use has been shown;
- d. The nature of those goods/services and the market(s) for them; and
- e. The geographical extent of the use shown.

36. I remind myself that this is a global assessment which includes looking at the evidential picture as a whole, not whether each individual piece of evidence shows use by itself.¹⁸

¹⁷ *Jumpman* BL O/222/16

¹⁸ *New Yorker SHK Jeans GmbH & Co KG v OHIM*, T-415/09

37. With all of the above in mind, I find there are various shortcomings in the evidence. The opponent has put forward no evidence in respect of turnover figures resulting from its use of the mark. I have a small selection of invoices; however, none of these demonstrate sales within the relevant territories. Otherwise, I have no evidence before me regarding sales, either online or in retail outlets, or how much revenue was generated from those sales overall. It is fairly common for only a sample of invoices to be filed in proceedings such as these, for various reasons including to limit the volume of evidence. However, in the case before me, none of the invoices relate to the relevant territories. It was open to, and presumably entirely possible for, the opponent to (1) provide overall revenue/turnover figures specific to the UK (and/or EU), and (2) file invoices from within the relevant territories. Mr Halawi states that the opponent “has made extensive use of the Marks in relation to the Goods and Services for many years”,¹⁹ and therefore, I would expect this evidence to be readily available.

38. The vast majority of the evidence does not show use of the mark within the UK (or the EU) and as such, this cannot be relied upon. The best of the evidence that I do have, as identified above, is two Mobilise Technology invoices for ‘set-up fees’. However, I have no further details as to what these invoices relate to, aside from Mr Halawi’s statement that Mobilise is “a provider of telecommunications software solutions.” This limited information does not, therefore, take me much further. I also have no other information before me to show how the mark is to be marketed within the UK. Neither do I have evidence before me to show the geographical extent of the use of the mark. Further, the use that *is* shown, i.e. the website evidence, is also flawed as most of it is not dated, and the one printout that is in the relevant period is of a website that did not target the UK.

39. Similarly, I have no direct evidence of any promotional activities being conducted in the relevant territories during the relevant period, and I have been provided with no details as to the size of the relevant market(s) or the share(s) of the same held by goods/services sold under the marks relied upon. As such, I am not satisfied that the opponent has genuinely tried to create or preserve a market share for its goods/services within the UK (or the EU prior to IP completion day).

¹⁹ Witness statement of Mr Halawi, para 7

40. As per *Awareness Limited*, cited above, the burden lies on the opponent to prove use. Taking all of the evidence into account and considering all of the criticisms cited above, I find that the material provided is insufficient to demonstrate that the opponent has genuinely used its mark within the relevant period. As a result, the opponent is not permitted to rely on its marks for the basis of this opposition, and as such, the opposition must fail.

CONCLUSION

41. The opposition under section 5(2)(b) fails in its entirety and, subject to any successful appeal against my decision, the applicant's mark is permitted to proceed to registration in respect of all of the goods applied for.

COSTS

42. The applicant has been successful and is entitled to a contribution towards its costs. Awards of costs in proceedings are based upon the scale as set out in Tribunal Practice Note 1/2023. In the circumstances I award the applicant the sum of £1,300 as a contribution towards the cost of the proceedings. The sum is calculated as follows:

Preparing and filing the TM8 and considering the other side's statement:	£250
Preparing evidence and considering the other side's evidence ²⁰	£700
Preparing submissions-in-lieu	£350
TOTAL	£1,300

²⁰ In awarding this amount, I have taken into consideration the fact that the applicant's witness statement included details regarding the background to the company and some of its activities which were of no assistance.

43. I therefore order OCC Establishment to pay NewOrbit Space Ltd. the sum of £1,300. 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 6th day of October 2026

L Bailey

For the Registrar