O/0972/25

TRADE MARKS ACT 1994

IN THE MATTER OF TRADE MARK APPLICATION NO. 4031910
IN THE NAME OF PAWRENT, INC. FOR THE MARK

pawrent

IN CLASSES 9 AND 38

AND

THE OPPOSITION THERETO
UNDER NO. 448598 BY ZEONYC

BACKGROUND AND PLEADINGS

1. On 27 March 2024, Pawrent, Inc. ("the applicant") applied to register the trade mark shown on the cover page of this decision ("the contested mark") in the UK, claiming a US priority date of 1 March 2024.[1] The application was published for opposition purposes on 12 April 2024, and registration is sought for the following goods and services:

Class 9 Mobile apps; Downloadable smart phone application software; Smartphone software applications, downloadable; Downloadable application software for smart phones; Downloadable software in the nature of a mobile application; Downloadable software applications for mobile phones; Downloadable computer software for use as an application programming interface (API);Downloadable mobile applications; Computer software for use as an application programming interface (API);Downloadable mobile applications for the management of data; GPS navigation device; Downloadable mobile applications for the management of information; Computer application software for use with wearable computer devices; Interactive software; Computer software applications, downloadable; Communication, networking and social networking software; Computer software platforms for social networking; Application software for social networking services via internet; Communication software for connecting global computer networks.

Class 38 Providing virtual facilities for real-time interaction among computer users; Providing online facilities for real-time interaction with other computer users; Communication services, namely, electronic transmission of data and documents among users of computers; Providing on-line chat rooms for transmission of messages among computer users; Interactive communications services by means of computer.

2. On 12 July 2024, the application was opposed in full by Zeonyc ("the opponent"), under sections 3(1)(b), (c) and (d) of the Trade Marks Act 1994 ("the Act"). In summary the opponent claims the following:

[1] (US) 98430414.

- Section 3(1)(b): against all the goods and services listed above because the mark ‘pawrent’ is devoid of distinctive character as it is a combination of ‘paw’ and ‘parent’ which is widely used by the general public to refer to pet owners, and as such, has become a common term in everyday language.

- Section 3(1)(c): against all the goods and services listed above, the opponent claims that the mark is inherently descriptive, as it describes the relationship between a pet and its owner, akin to a parental bond; granting trademark protection to a descriptive term that merely combines common words would unfairly restrict its use in everyday language and commercial contexts, especially in relation to online communications of any kind, which include use of the words ‘pawrent’ or ‘pawrents’ in newsletters, landing pages and promotional materials.

- Section 3(1)(d): against all the goods and services listed above, because the word ‘pawrent’ has become customary in the current language and has become part of the common vernacular, due to its widespread use in the media, online forums, and by pet owners globally; granting trade mark protection for such a term would be detrimental to the public interest, as it would inhibit the free use of a word that has become a staple in pet-related discussions.

3. The applicant filed a defence and counterstatement denying the grounds.

4. Both parties filed evidence, which I will summarise to the extent that I consider necessary. Neither party requested a hearing and only the opponent filed written submissions in lieu of a hearing.

5. The applicant is represented by Richard Myers; the opponent represents itself.

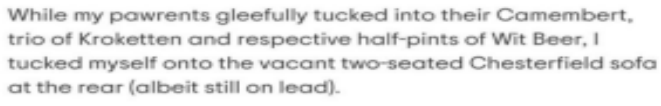
EVIDENCE SUMMARY

The opponent’s evidence

6. The opponent filed evidence in the form of the witness statement of Spyros Spyrou, dated 5 January 2025, along with 19 exhibits (Evidence 1 - Evidence 19). Mr Spyrou is the opponent's Community Counsel and is authorised to file evidence on their behalf.

7. Mr Spyrou states that the term 'pawrent' is not distinctive, is descriptive, and has become customary in the trade to describe pet owners. He explains that 'pawrent' is widely recognised as a portmanteau of 'paw' and 'parent', used to describe individuals who treat their pets as children. He adds that it is not associated with any single brand but is used generically across various contexts, and that its widespread usage confirms that it cannot serve as a unique identifier for the applicant's goods or services. Mr Spyrou states that it is clear from the evidence that 'pawrent' is a generic and descriptive term that has become customary in trade and language. He adds that registration of the trade mark would unfairly restrict its use in the public domain and harm businesses and individuals using the term descriptively.

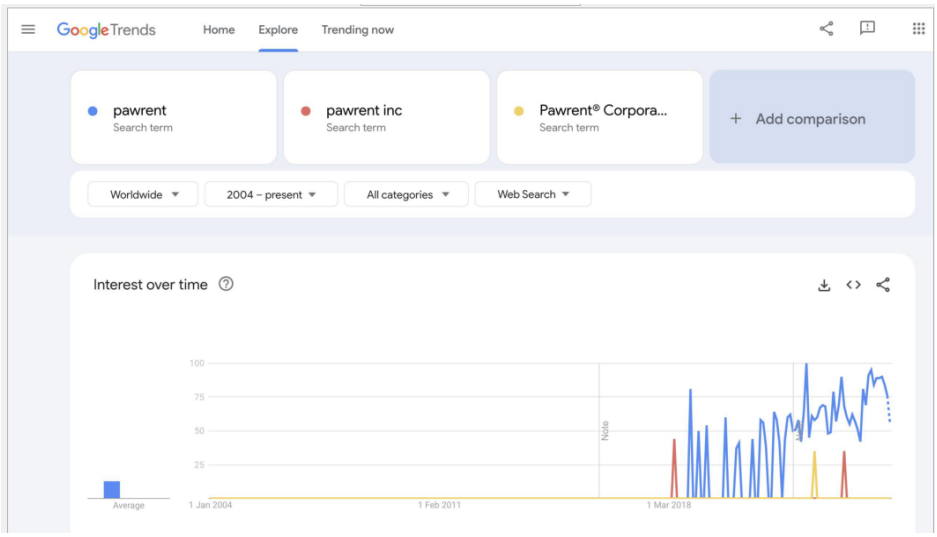
- Evidence 1 and 15 – comprises the same five-page extract which Mr Spyrou states was taken from 'Reddit' (a US social news aggregation website), showing a discussion where users refer to themselves as 'pawrents', in general non-brand specific context. The exhibit, dated August 2021, contains a UK post from 'TripAdvisor' and features the word 'pawrent' (as the following shows), along with a message board relating to the post.


While my pawrents gleefully tucked into their Camembert, trio of Kroketten and respective half-pints of Wit Beer, I tucked myself onto the vacant two-seated Chesterfield sofa at the rear (albeit still on lead).

Mr Spyrou states that this evidence demonstrates that 'pawrent' is widely recognised as a word used to describe individuals who treat their pets as children. However, I note that less than thirty users commented on the post, and I am unable to established whether any of those users were based in the UK. Furthermore, I am unable to ascertain from the exhibit what the volume of UK consumers were that was exposed to the post.

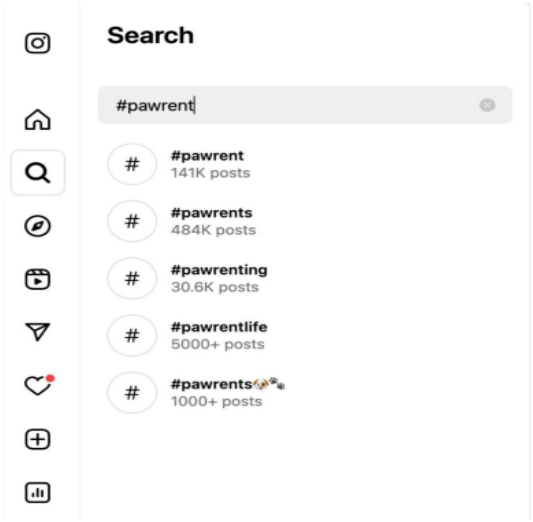
- Evidence 2 – contains a screenshot taken from ‘www.powerthesaurus.org’ (an online community driven thesaurus) showing the word ‘Pawrent’, defined as ‘The owner of a pet dog or cat (informal)’. The exhibit is dated 1 May 2025, which is after the relevant date, being the filing date of the application (1 March 2024), though presumably this date reflects the date on which the screenshot was retrieved from the internet. It therefore fails to point to the position in the UK, as at the relevant date.

- Evidence 3 – contains a screenshot taken from ‘Google Trends’ showing user searches that took place on 1 March 2018 for the words ‘pawrent’, ‘pawrent Inc’ and ‘pawrent Corporation’. In his witness statement, Mr Spyrou states that the exhibit demonstrates that the term is not widely recognised as a brand. However, as can be seen from the following, this is not clear from the exhibit, nor is it clear whether the search data relates to searches conducted by UK users, keeping in mind that ‘pawrent Inc’ (the applicant) and ‘pawrent Corporation’ would appear to relate to US companies.



- Evidence 4 – contains an undated screenshot which Mr Spyrou states relates to information taken from the online social media platform ‘Instagram’, showing how many times ‘#pawrent’ was used. Mr Spyrou claims that the exhibit demonstrates that ‘#pawrent’ has been used over 461,000 times with no clear association to a single brand. However, as can be seen from the following, the exhibit is undated, and it is not possible to establish from the screenshot when

the searches were conducted and whether any of the 461,000 searchers were based in the UK.



- Evidence 5 and 6 – both exhibits relate to Instagram posts featuring the word 'pawrent' and 'pawrents' which Mr Spyrou states are unrelated to the applicant's brand and demonstrate that the term 'pawrent' is not distinctive or exclusively tied to the applicant. The exhibits are undated, though exhibit 'Evidence 6' features the following at the bottom of the page: © 2025 Instagram from Meta

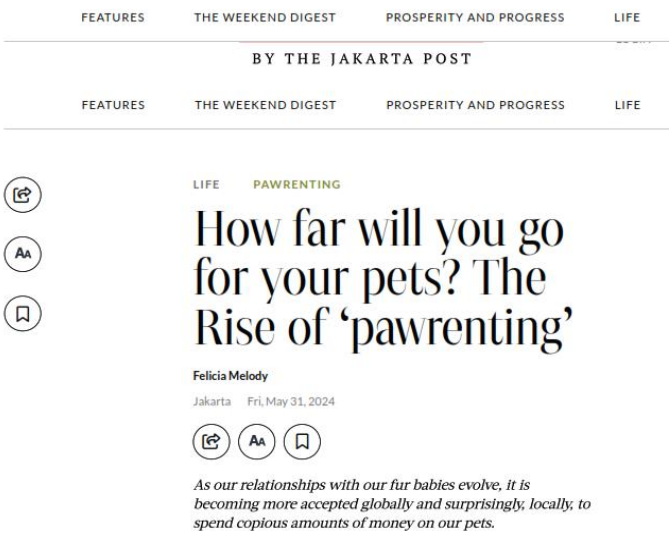
  Furthermore 'Evidence 5' appears to relate to an Instagram post from 'the New Zealand Natural Pet Food Company', where '#pawrent' appears once; and 'Evidence 6' is an Instagram post from the account of 'PAWRENT & CO', based in Wayne, Pennsylvania (USA). This Instagram post features the following:

  In regard to this Instagram 'PAWRENT & CO' account, it is noted from the applicant's evidence,[2] that this trade mark and Instagram account belongs to

[2] Evidence 18, Exhibit A.

them. Accordingly, contrary to Mr Spyrou's viewpoint, 'Evidence 6' appears to relate to the applicant and its use of the word 'pawrent' in a trade mark sense. That aside, both exhibits relate to companies outside the UK, and it is not possible to establish from these undated Instagram exhibits, when they were viewed, who viewed them, and what proportion of those, if any, were based in the UK.

- Evidence 7 – contains a news article taken from the online publication 'The Weekender' by the Jakarta Post (Indonesia), and is dated 31 May 2024, which is after the relevant date. The article is titled 'How far will you go for your pets? The rise of 'pawrenting'' and relates to the relationship between owners and their dogs. Mr Spyrou claims that the exhibit, as shown below, provides an example from a reputable publication of generic use of the term 'pawrent':



The exhibit relates to an Indonesian online publication, and therefore, it is impossible to say exactly who viewed the publication and when, and what proportion of those who did view it were based in the UK.

- Evidence 8 - contains a news article taken from an online publication of 'CNA Today' (Singapore), dated 4 June 2022 (updated on 25 September 2024). The article is titled 'Adulting 101: What being a 'Pawrent' has taught me about

parenting'. The article appears to relate to young 'Singaporean' pet owners, and features the following:

Adulthood is an invigorating stage of life as young people join the workforce, take on more responsibilities and set their sights on the future. But its many facets — from managing finances and buying a home to achieving work-life balance — can be overwhelming.

In this series, TODAY's journalists help young Singaporeans navigate this stage of their lives and learn something themselves in the process.

After two years as a "pawrent", one of the biggest things I've learned is that things will inevitably go wrong and you have to work with your partner or resentment will breed. It is also impossible for everything to be perfect, no matter what it may look like on social media.

As the exhibit relates to an online publication originating from Singapore, it is not possible to ascertain who viewed the publication and when, and what proportion of those viewers were based in the UK.

- Evidence 9 - contains an article taken from an online post of 'Oasy – world of love'. From the article it can be established that 'Oasy' is a brand of 'Wonderfood S.p.A.', based in the Republic of San Marino, Italy. The undated article is titled 'Pawrent's Smell is Dogs' Favourite Fragrance', and features the following:

Emory University, Atlanta, conducted a very special study with amazing results...

Dr. Gregory Berns is professor at **Emory University, Atlanta**. In a recent study he pointed out that dogs' emotional reaction when smelling their "pawrent" is comparable to the reaction we humans have when smelling our favourite fragrance.

For each dog, first sample was an extract of their own smell, second sample was the smell of an unknown dog, third one was smell of a dog they already know, fourth from an unknown person and last one was the smell of their "pawrent". None of the "smell sources" was there when the test was carried out. People would expect dogs to be particularly sensitive to other dogs' smell, but this study actually showed that reactions to smell of a family member were the strongest, while reactions to smell of a known dog came second.

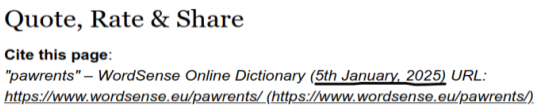
As with Evidence 7 and 8 above, this exhibit fails to demonstrate the position in the UK, on the relevant date. Whilst I appreciate that this online article could have been accessed by users in the UK, I have no evidence before me that would enable me to ascertain who viewed the post and when, and what proportion of those viewers, if any, were based in the UK.

- Evidence 10 – contains a screenshot of a Google Search page, showing the 'second page' search results for the word 'Pawrent'. The screenshot is undated, and it is unclear if the information shown relates to use in the UK.

- Evidence 11 - contains an undated screenshot taken from 'Brand Mentions'. Mr Spyrou states that the exhibit shows 'pawrent hashtag' analysis. The undated screenshot features the following information:

However, as can be seen from the above, it is not possible to establish from the screenshot when the search analysis was conducted and whether any of the analysis relates to users based in the UK.

- Evidence 12 – contains a screenshot taken from the free EU online dictionary 'WordSense' (www.wordsense.eu), which references 'pawrent' as meaning 'the owner of a pet dog or cat (informal)'. The exhibit is dated 1 May 2025, which I presume is the date on which the definition was retrieved from the internet. However, I also note the following, featured on page 2 of the exhibit, which shows the date '5th January 2025', which possibly reflects the date on which the entry was made:


Quote, Rate & Share

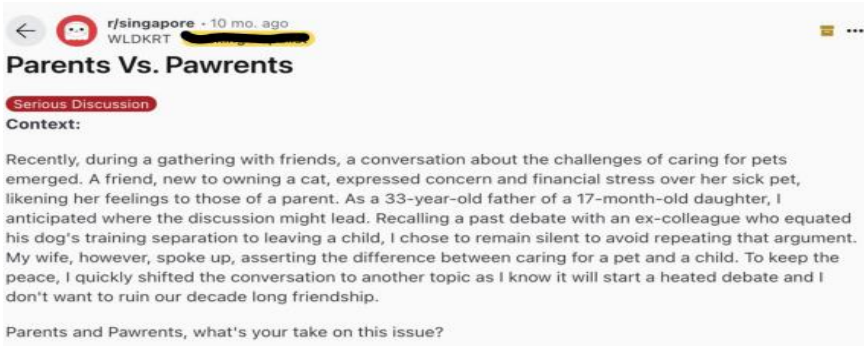
Cite this page:
"pawrents" – WordSense Online Dictionary (5th January, 2025) URL: https://www.wordsense.eu/pawrents/ (https://www.wordsense.eu/pawrents/)

Accordingly, this exhibit fails to point to the position in the UK, as at the relevant date.

- Evidence 13 – contains screenshots taken from 'Pawrent Adventure'. The exhibit contains numerous dog friendly related articles, relating to areas in the

USA, such as, San Francisco, California, Santa Cruz Mountains and L.A. County. The articles are dated between January 2023 to November 2023. The articles appear to be directed at US users and does not, therefore, reflect the position in the UK. Whilst I appreciate that the online article could have been accessed by users in the UK, I have no evidence before me to enable me to ascertain who viewed the articles, and what proportion of those, if any, were based in the UK.

- Evidence 14 - this undated exhibit taken from 'reddit Singapore', features the following discussion:


r/singapore · 10 mo. ago
WLDKRT [redacted]

Parents Vs. Pawrents

Serious Discussion

Context:

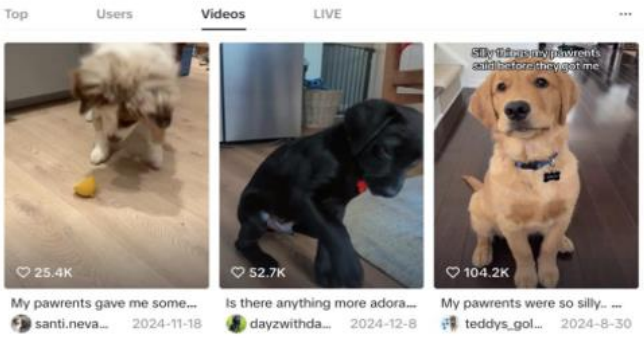
Recently, during a gathering with friends, a conversation about the challenges of caring for pets emerged. A friend, new to owning a cat, expressed concern and financial stress over her sick pet, likening her feelings to those of a parent. As a 33-year-old father of a 17-month-old daughter, I anticipated where the discussion might lead. Recalling a past debate with an ex-colleague who equated his dog's training separation to leaving a child, I chose to remain silent to avoid repeating that argument. My wife, however, spoke up, asserting the difference between caring for a pet and a child. To keep the peace, I quickly shifted the conversation to another topic as I know it will start a heated debate and I don't want to ruin our decade long friendship.

Parents and Pawrents, what's your take on this issue?

This exhibit appears to relate to a Singapore online forum, and does not, therefore, reflect the position in the UK. Whilst I appreciate that the online forum could have been accessed by users in the UK, I have no evidence before me to enable me to ascertain when the post was created/viewed, and what proportion of those who viewed it, were based in the UK.

- Evidence 15 – (see 'Evidence 1' above)

- Evidence 16 - contains screenshots taken from the social media site 'TikTok'. The screenshots contain numerous photographs of cats and dogs, posted by users throughout 2024. The word 'pawrents' appears alongside some of the photographs, as the following example shows:



However, I am unable to establish from the exhibit who created the posts, who viewed the posts, and what proportion of creators/viewers, if any, were based in the UK.

- Evidence 17 – contains an online article taken from ‘PetLife’. The seven-page article was published online in 2024 and is titled ‘A Comprehensive Guide to Pet Care for New and Seasoned Pawrents’. The word ‘pawrent’ features throughout the article in relation to owners of pets. I have no evidence before me to enable me to ascertain who viewed the post, and what proportion of those viewers, if any, were based in the UK.

- Evidence 18 – contains a six-page article, dated 1 April 2024, which is after the relevant date. The article is taken from ‘www.maxime.asia’. The article is titled ‘Every Pawrent’s Guide to Organizing Pet Playdates with their FURiends’. The word ‘pawrent’ features numerous times throughout the article in relation to owners of pets. However, as it is dated outside the relevant period and appears to be directed at users from Asia, I am of the view that the exhibit does not relate to or reflect the position in the UK.

- Evidence 19 - contains a four-page article, dated 18 August 2023, taken from ‘The Cat Whisperer Singapore’ (www.thecatwhisperer.com.sg). The article is titled ‘Am I ready to be a Pawrent?’. The word ‘pawrent’ appears within the article in relation to things to consider before adopting a pet. The online article appears to be directed at users from Singapore and does not, therefore, reflect the position in the UK.

The applicant's evidence

8. The applicant filed evidence in the form of the witness statement of Richard Myers, dated 1 March 2025, along with 34 exhibits (Evidence 1 - Evidence 34). Mr Myers is the President of the applicant. Broadly speaking, the evidence is aimed at refuting the opponent's claims and evidence.

9. In his witness statement, Mr Myers states that he created the term 'PAWRENT' in 2000 out of love for his dog.[3] He explains that his first 'PAWRENT' trade mark was registered in the US in 2002,[4] and that his first website and blog 'pawrent.com' was launched in 2002.[5] In addition, Mr Myers explains that as well as his UK trade mark registration,[6] he has secured over twenty other 'PAWRENT' trademark registrations across multiple jurisdictions globally, including in major markets.

10. Mr Myers explains that as an established trademark holder, he has had to proactively protect his intellectual property through proper registration channels and has taken action to address infringements through takedowns and legal enforcement.[7] He adds that he maintains a domain portfolio of over eighty domain names to protect the PAWRENT brand from misuse and malicious activity.

11. Mr Myers adds that during the examination of this current application, the UKIPO considered third-party observations from the opponent and determined that the application met the necessary requirements for registration, enabling it to proceed to the next stage without objections.[8] I will address this matter as a preliminary issue below.

12. Mr Myers states that his application specifically pertains to his mobile app and website in relation to goods and services in classes 9 and 38, with no intention to restrict public commentary or casual use of the term 'pawrent', contrary to the opponent's claims.

[3] Evidence 1, exhibits A & F.
[4] Evidence 1, exhibit C.
[5] Evidence 1, exhibits D & F.
[6] Evidence 2, exhibit A.
[7] Evidence 3, exhibits A to M.
[8] Evidence 5, exhibit A.

13. With regards to ‘Pawrent’, Mr Myers states that the word has acquired a secondary meaning as a distinctive trademark associated with his brand, as evidenced by his long-standing use of the term in commerce and his registered trademarks across multiple jurisdictions. He adds that the articles and blogs provided by the opponent in its evidence do not refute this. He claims that his brand has an established presence due to his long-standing use of is coined, fictitious term ‘pawrent’, his multiple global trademark registrations for the word ‘pawrent’, and his market recognition. Mr Myers states that his evidence shows customers actively enjoying his products and tagging his business on social media, which he states further reinforces and solidifies the strength and recognition of his brand.[9]

14. Mr Myers states that in its evidence the opponent has failed to include critical evidence, such as images or screenshots from his official websites, such as *Pawrent.com, Pawrents.com* and *PawrentCorporation.com,* or his apps on Google Play or App Store, which he states would clearly demonstrate use of the word ‘pawrent’ as a brand and that he has an established, well-recognised digital footprint.[10]

15. Mr Myers explains that his evidence demonstrates the growing recognition of the ‘pawrent’ brand, which includes, amongst other things, evidence of customers proudly wearing ‘pawrent’ products,[11] images from the ‘pawrent’ collection, media coverage and sponsored events.[12] In addition, he adds that ‘Walmart’s’ decision to carry the ‘Pawrent’ brand, albeit in the US, further underscores the strength and market acceptance of his ‘pawrent’ trade mark.[13]

RELEVANCE OF EU LAW

16. 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

[9] Evidence 19.
[10] Evidence 22.
[11] Evidence 19.
[12] Evidence 32 & 33.
[13] Evidence 34.

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.

PRELIMINARY ISSUES

17. As previously stated, in his witness statement Mr Myers states that during the examination process the UKIPO considered third-party observations from the opponent regarding the registrability of the mark 'pawrent' and determined that the application met the necessary requirements for registration, enabling it to proceed to the next stage without objections. With regards to the applicant's comments, it is important to keep in mind that this previous UKIPO finding does not preclude a finding for the opponent under these grounds within the present opposition proceedings,[14] on the basis that I am not bound by the Office's previous decision, but rather, I must make my decision based on the evidence before me in relation to use of the word 'pawrent' in the UK, at the relevant date.

18. It is noted that the applicant has made a request for costs off the usual scale,[15] I will return to this point later in this decision.

DECISION

Sections 3(1)(b), (c) and (d) of the Act

19. Sections 3(1)(b), (c) and (d) state:

> "3(1) The following shall not be registered –
>
> (a) […]
>
> (b) trade marks which are devoid of any distinctive character,

[14] *Swiss Research Labs Limited v Bauer Holdings Limited*, case BL O/1020/22, at paragraphs 10 to 12.
[15] Applicant's cost proforma, dated 26 May 2025.

(c) trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of services, or other characteristics of goods or services,

(d) trade marks which consist exclusively of signs or indications which have become customary in the current language or in the bona fide and established practice of the trade:

Provided that, a trade mark shall not be refused registration by virtue of paragraph (b), (c) or (d) above if, before the date of application for registration, it has in fact acquired a distinctive character as a result of the use made of it."

20. I bear in mind that the above grounds are independent and have differing general interests. It is possible, for example, for a mark not to fall foul of section 3(1)(c), but still be objectionable under Section 3(1)(b): SAT.1 *SatellitenFernsehen GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs) ("OHIM")*, Case C-329/02 P at [25].

21. The position under the above grounds must be assessed from the perspective of the average consumer, who is deemed to be reasonably observant and circumspect: *Matratzen Concord AG v Hukla Germany SA*, Case C-421/04.

22. I have no submissions or evidence from either party as to who the relevant public will be. Given that the contested mark's goods and services concern various forms of software, GPS navigation devices, chat room services, online facilities for real-time interaction with computer users and computer services, I consider that the average consumer for the goods and services will be a member of the general public who will likely pay a medium degree of attention as a number of factors will be taken into account such as suitability and cost, etc.

23. The relevant date for determining the above grounds of opposition is the date on which the application was made, being 1 March 2024.

DECISION

Section 3(1)(d)

24. I will first consider the opposition under Section 3(1)(d) of the Act.

25. In *Telefon & Buch Verlagsgesellschaft GmbH v OHIM*, Case T-322/03, the General Court ("GC") summarised the case law of the Court of Justice under the equivalent of s.3(1)(d) of the Act, as follows:

> "49. Article 7(1)(d) of Regulation No 40/94 must be interpreted as precluding registration of a trade mark only where the signs or indications of which the mark is exclusively composed have become customary in the current language or in the bona fide and established practices of the trade to designate the goods or services in respect of which registration of that mark is sought (see, by analogy, Case C-517/99 *Merz & Krell* [2001] ECR I-6959, paragraph 31, and Case T-237/01 *Alcon v OHIM – Dr. Robert Winzer Pharma* (BSS) [2003] ECR II-411, paragraph 37). Accordingly, whether a mark is customary can only be assessed, firstly, by reference to the goods or services in respect of which registration is sought, even though the provision in question does not explicitly refer to those goods or services, and, secondly, on the basis of the target public's perception of the mark (*BSS*, paragraph 37).
>
> 50. With regard to the target public, the question whether a sign is customary must be assessed by taking account of the expectations which the average consumer, who is deemed to be reasonably well informed and reasonably observant and circumspect, is presumed to have in respect of the type of goods in question (*BSS*, paragraph 38).
>
> 51. Furthermore, although there is a clear overlap between the scope of Article 7(1)(c) and Article 7(1)(d) of Regulation No 40/94, marks covered by Article 7(1)(d) are excluded from registration not on the basis that they are descriptive, but on the basis of current usage in trade sectors covering trade in the goods

or services for which the marks are sought to be registered (see, by analogy, *Merz & Krell,* paragraph 35, and BSS, paragraph 39).

52. Finally, signs or indications constituting a trade mark which have become customary in the current language or in the bona fide and established practices of the trade to designate the goods or services covered by that mark are not capable of distinguishing the goods or services of one undertaking from those of other undertakings and do not therefore fulfil the essential function of a trade mark (see, by analogy, *Merz & Krell*, paragraph 37, and *BSS*, paragraph 40)."

26. Proving this ground requires the filing of evidence of fact supporting the claim that the mark was customary for other traders to use the word 'pawrent' at the relevant date, but not in a trade mark sense.[16] There is a relatively high evidential bar: in *Affinity Leasing Limited v Total Motion Limited*, Mr Daniel Alexander QC (as he then was), sitting as the Appointed Person reviewed the authorities and concluded that the overall message was that section 3(1)(d) "requires specific evidence that it is specifically customary."[17] Mr Alexander also observed at paragraph 12 of his decision that section 3(1)(c) "does not require the same degree of proof that the term has in [sic] been used in the specific descriptive way."

27. I need to make the assessment taking into account the expectations of relevant average consumers in deciding whether at the date of the application a mark had become 'customary in the current language or in the bona fide and established practices of the trade'. Although where intermediaries influence decisions to purchase goods or services their views should also be taken into account, as I have already set out above, in the present case the average consumer for the contested goods and services is the general public, and it is their views which are likely to be of decisive importance.[18]

28. In *Stash Ltd v Samurai Sportswear Ltd*, Professor Annand, sitting as the Appointed Person, stated that it was sufficient if a mark offended either limb of s.3(1)(d).[19] That

[16] *Nude Brands Ltd v Stella McCartney Ltd*, [2009] EWHC 2154 Ch.
[17] Case BL O/522/20, at [22].
[18] 21 CJEU, Case C-371/02 *Björnekulla Fruktindustrier AB v Procordia Food AB,* paragraphs 24 and 25.
[19] BL O/281/04.

is to say, that (at the relevant date) the mark had become customary (a) 'in the current language', or b) 'in the bona fide and established practices of the trade'. The words 'of the trade' should not be construed as applying to both limbs. Basing herself on the Oxford English Reference Dictionary, 1995, Professor Annand took 'customary' (in the language) to mean 'usual; in accordance with custom'.

29. In light of the above case law, the pertinent question is whether, on the relevant date (27 March 2024), the mark 'pawrent' had, based on the perception of the average consumer of the goods and services at issue, in the UK, 'become customary in the current language or in the bona fide and established practices of the trade to designate the goods or services covered by that mark'.

30. It is the opponent's claim that the applicant's mark 'pawrent' has become customary in the trade, to describe pet owners. It further submits that its widespread use in media, online forums, and by pet owners, globally indicates that it has become part of the common vernacular, and therefore, registering such a term would be detrimental to the public interest, as it would inhibit the free use of a word that has become a staple in pet-related discussions.

31. As previously summarised, I have found the majority of the opponent's evidence is undated and/or is not specifically targeted towards the UK, for example some of the exhibits appear to comprise online articles directed towards audiences outside the UK, such as, America, Asia, Indonesia or Singapore. These are of no assistance, on the basis that the assessment here is based on the understanding of the term 'pawrent' in the UK, so any use targeted outside the UK is irrelevant.

32. I do not dispute that for some individuals (noting that there is no evidence to base them in the UK), the term 'pawrent' is a recognisable, informal, fanciful word used to describe the owner of a pet, for example, as demonstrated in some of the opponent's exhibits, however, I keep in mind that it is the use shown of the word 'pawrent' in relation to the applicant's class 9 goods and class 38 services that is relevant. In this regard, I find that the opponent's evidence is largely irrelevant.

33. The use of ‘pawrent’ in blogs, social media posts or in online articles in relation to relationships between pets and their owners does not reflect the position in the relevant trade. Furthermore, as shown in my evidence summary, most of the evidence is undated or falls after the relevant date and is not UK-specific. As such, I find that there is nothing in the evidence to suggest that use of ‘pawrent’ had become customary in the language or in the bona fide and established practices of the trade, (for the goods and services at issue), in the UK, by the relevant date. As a result, I find that the opponent has failed to prove its claim.

34. The opposition based on section 3(1)(d) fails.

Section 3(1)(c) of the Act

35. I will now move to consider the opposition under Section 3(1)(c) of the Act. which goes to the heart of the opponent’s case, which is that the mark ‘pawrent’ consists of the combination of two common words, ‘paw’ and ‘parent’, and is therefore descriptive as it directly describes the relationship between a pet and its owner, akin to a parental bond.

36. Section 3(1)(c) prevents the registration of marks which are descriptive of the goods and services, or a characteristic of them. The case law under section 3(1)(c) (corresponding to article 7(1)(c) of the EUTM Regulation, formerly article 7(1)(c) of the CTM Regulation) was set out by Arnold J. (as he then was) in *Starbucks (HK) Ltd v British Sky Broadcasting Group Plc* [2012] EWHC 3074 (Ch) as follows:

> “91. The principles to be applied under art.7(1)(c) of the CTM Regulation were conveniently summarised by the CJEU in *Agencja Wydawnicza Technopol sp. z o.o. v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)* (C-51/10 P) [2011] E.T.M.R. 34 as follows:
>
> > “33. A sign which, in relation to the goods or services for which its registration as a mark is applied for, has descriptive character for the purposes of Article 7(1)(c) of Regulation No 40/94 is – save where Article 7(3) applies – devoid of any distinctive character as regards those goods

or services (as regards Article 3 of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ 1989 L 40, p. 1), see, by analogy, [2004] ECR I-1699, paragraph 19; as regards Article 7 of Regulation No 40/94, see *Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) v Wm Wrigley Jr Co* (C-191/01 P) [2004] 1 W.L.R. 1728 [2003] E.C.R. I-12447; [2004] E.T.M.R. 9; [2004] R.P.C. 18, paragraph 30, and the order in *Streamserve v OHIM* (C-150/02 P) [2004] E.C.R. I-1461, paragraph 24).

[…]

36. […] [D]ue account must be taken of the objective pursued by Article 7(1)(c) of Regulation No 40/94. Each of the grounds for refusal listed in Article 7(1) must be interpreted in the light of the general interest underlying it (see, inter alia, *Henkel KGaA v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)* (C-456/01 P) [2004] E.C.R. I-5089; [2005] E.T.M.R. 44, paragraph 45, and *Lego Juris v OHIM* (C-48/09 P), paragraph 43).

37. The general interest underlying Article 7(1)(c) of Regulation No 40/94 is that of ensuring that descriptive signs relating to one or more characteristics of the goods or services in respect of which registration as a mark is sought may be freely used by all traders offering such goods or services (see, to that effect, *OHIM v Wrigley*, paragraph 31 and the case-law cited).

38. With a view to ensuring that that objective of free use is fully met, the Court has stated that, in order for OHIM to refuse to register a sign on the basis of Article 7(1)(c) of Regulation No 40/94, it is not necessary that the sign in question actually be in use at the time of the application for registration in a way that is descriptive. It is sufficient that the sign could be used for such purposes (*OHIM v Wrigley, paragraph 32;*

Campina Melkunie, paragraph 38; and the order of 5 February 2010 in *Megrel and Others v OHIM* (C-80/09 P), paragraph 37).

39. By the same token, the Court has stated that the application of that ground for refusal does not depend on there being a real, current or serious need to leave a sign or indication free and that it is therefore of no relevance to know the number of competitors who have an interest, or who might have an interest, in using the sign in question (*Joined Cases C-108/97 and C-109/97 Windsurfing Chiemsee [1999] ECR I-2779, paragraph 35, and Case C-363/99 Koninklijke KPN Nederland [2004] ECR I-1619*, paragraph 38). It is, furthermore, irrelevant whether there are other, more usual, signs than that at issue for designating the same characteristics of the goods or services referred to in the application for registration (*Koninklijke KPN Nederland*, paragraph 57).

And

46. As was pointed out in paragraph 33 above, the descriptive signs referred to in Article 7(1)(c) of Regulation No 40/94 are also devoid of any distinctive character for the purposes of Article 7(1)(b) of that regulation. Conversely, a sign may be devoid of distinctive character for the purposes of Article 7(1)(b) for reasons other than the fact that it may be descriptive (see, with regard to the identical provision laid down in Article 3 of Directive 89/104, *Koninklijke KPN Nederland*, paragraph 86, and *Campina Melkunie*, paragraph 19).

47. There is therefore a measure of overlap between the scope of Article 7(1)(b) of Regulation No 40/94 and the scope of Article 7(1)(c) of that regulation (see, by analogy, *Koninklijke KPN Nederland*, paragraph 67), Article 7(1)(b) being distinguished from Article 7(1)(c) in that it covers all the circumstances in which a sign is not capable of distinguishing the goods or services of one undertaking from those of other undertakings.

48. In those circumstances, it is important for the correct application of Article 7(1) of Regulation No 40/94 to ensure that the ground for refusal set out in Article 7(1)(c) of that regulation duly continues to be applied only to the situations specifically covered by that ground for refusal.

49. The situations specifically covered by Article 7(1)(c) of Regulation No.40/94 are those in which the sign in respect of which registration as a mark is sought is capable of designating a 'characteristic' of the goods or services referred to in the application. By using, in Article 7(1)(c) of Regulation No 40/94, the terms 'the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service, or other characteristics of the goods or service', the legislature made it clear, first, that the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service must all be regarded as characteristics of goods or services and, secondly, that that list is not exhaustive, since any other characteristics of goods or services may also be taken into account.

50. The fact that the legislature chose to use the word 'characteristic' highlights the fact that the signs referred to in Article 7(1)(c) of Regulation No 40/94 are merely those which serve to designate a property, easily recognisable by the relevant class of persons, of the goods or the services in respect of which registration is sought. As the Court has pointed out, a sign can be refused registration on the basis of Article 7(1)(c) of Regulation No 40/94 only if it is reasonable to believe that it will actually be recognised by the relevant class of persons as a description of one of those characteristics (see, by analogy, as regards the identical provision laid down in Article 3 of Directive 89/104, *Windsurfing Chiemsee,* paragraph 31, and *Koninklijke KPN Nederland,* paragraph 56)."

92. In addition, a sign is caught by the exclusion from registration in art.7(1)(c) if at least one of its possible meanings designates a

characteristic of the goods or services concerned: see *OHIM v Wrigley* [2003] E.C.R. I-12447 at [32] and *Koninklijke KPN Nederland NV v Benelux-Merkenbureau* (C-363/99 [2004] E.C.R. I-1619; [2004] E.T.M.R. 57 at [97]."

37. Paragraph 49 of *Agencja Wydawnicza Technopol sp. z o.o.* (quoted above) states that the list of characteristics in the legislation which is equivalent to section 3(1)(c) is not exhaustive, "since any other characteristics of goods or services may also be taken into account". In *Burgerista Operations GmbH v Burgista Bros Limited and Ors,* Hacon J said:[20]

> "14. To establish their case under art.7(1)(c), the Defendants did not have to show that burgerista designated any of the goods or services in the Trade Mark specification exactly. Designation of a characteristic will do and this includes ancillary characteristics. What this can mean was demonstrated by the CJEU in Case C-363/99, *Koninklijke KPN Nederland NV v Benelux Merkenbureau* [2004] ECR I-1619; [2005] 3 WLR 649. A characteristic of a post office is that it sells items such as stamps; therefore POST OFFICE may not be registered for postage stamps or other goods characteristically sold in a post office, see the judgment at [54]-[57] and [102]."

38. Having set out the relevant law and legal principles, I now take stock in light of the claims and evidence in this case. My task here is to decide if, on the relevant date (1 March 2024), the mark 'pawrent', was descriptive of any characteristics of the goods and services covered by the application. This position must be assessed from the perspective of the average consumer, who is deemed to be well informed, reasonably observant and circumspect.[21] I keep in mind that the objective of this section is to ensure that signs exclusively designating a characteristic of the goods and services remain free for use by other traders of those goods or services.

39. In deciding whether the applicant's mark 'pawrent' contravenes section 3(1)(c), I will first consider whether this word is descriptive.

[20] [2018] EWHC 35 (IPEC).
[21] *Matratzen Concord AG v Hukla Germany SA,* Case C-421/04.

40. Furthermore, in reaching my decision, I remain mindful that a trade mark does not need to be in use in a descriptive manner at the time of application for it to fall foul of section 3(1)(c): the possibility that a sign may be used descriptively in the future should also be considered.[22]

41. In his witness statement Mr Spyrou states the term 'pawrent' is widely recognised as a portmanteau of the word 'paw' and 'parent', used to describe individuals who treat their pets as children, and that it is not associated with any single brand but is used generically across various contexts. Contrary to the opponent's viewpoint, in his witness statement, Mr Myers states that the word 'pawrent' is not a combination of the words 'paw' and 'parent', but rather is a combination of the words 'paw' and 'rent', resulting in the coined, fictitious term, 'pawrent'.

42. For section 3(1) to bite, I must be satisfied that the average consumer would, at the relevant date, have immediately perceived, without thought or explanation, that the word 'pawrent' designated characteristics of the goods and services at issue.

43. However, I see nothing in the evidence before me to suggest that 'pawrent' specifically was associated with any of the goods and services concerned, in the UK, at the relevant date. The question is, therefore, whether it is reasonable to assume that such an association would be formed in the future. In this regard, I need to take into account the degree of familiarity amongst the relevant public with the word 'pawrent', its characteristics and the category of goods and services concerned.

44. Whilst I appreciate that the resulting combination, 'pawrent', when perceived as a whole, lends itself to a fanciful play on words, i.e. 'pawrent' instead of 'parent', as a whole, I find that combination unusual and fanciful, and would not be the apt term used to describe the applicant's goods and services at issue, nor do I have any evidence before me to show that 'pawrent' would be understood as being a description of any of the characteristics of the applicant's goods or services.

[22] *Exalation v OHIM,* Case T-85/08, paragraphs 42 to 43.

45. I therefore disagree with the opponent that its evidence demonstrates that the relevant public will view 'pawrent' as a descriptive term in relation to the goods and services at issue. Whilst I acknowledge that some of the opponent's evidence shows use of the word 'pawrent', this, as previously stated, appears to mainly comprise online blogs, social media posts and articles directed towards audiences outside the UK, such as, America, Asia, Indonesia or Singapore. Even if there were some users in the UK that accessed these articles or blogs, etc., I am not convinced that they would make up a significant proportion of average consumers. Importantly, most of the evidence is undated or falls after the relevant date.

46. I remind myself that for a sign to be caught by the prohibition set out in section 3(1)(c), there must be a sufficiently direct and specific relationship between the sign and the goods and services at issue, to enable the public concerned to immediately perceive, without further thought, a description of the goods and services in question or of one of their characteristics.[23] The descriptiveness of a sign can only be assessed, first, in relation to how the relevant public understands the sign and, second, in relation to the goods and services concerned.

47. I am of the view that the UK average consumer will likely perceive the word 'pawrent' as invented, with no direct reference to the goods and services at issue. Therefore, I find that there is an insufficiently direct and specific relationship between the mark and the goods and services at issue. Without further thought, the relevant public is not likely to perceive a characteristic of those goods and services.

48. The opposition under Section 3(1)(c) fails.

Section 3(1)(b) of the Act

49. The opponent's objection under this ground appears to me to be similar to that advanced under section 3(1)(c), i.e. that the term 'pawrent' is a combination of the word 'paw' and 'parent' and is widely used by the general public to refer to pet owners,

[23] T-19/04, *Paperlab*, paragraph 25.

and as such lacks distinctive character as it has become a common term in everyday language.

50. Section 3(1)(b) of the Act prevents registration of marks which are devoid of distinctive character. The principles to be applied under article 7(1)(b) of the CTM Regulation (which is now article 7(1)(b) of the EUTM Regulation, and is identical to article 3(1)(b) of the Trade Marks Directive and s.3(1)(b) of the Act) were conveniently summarised by the CJEU in *OHIM v BORCO-Marken-Import Matthiesen GmbH & Co KG* (C-265/09 P) as follows

> "29..... the fact that a sign is, in general, capable of constituting a trade mark does not mean that the sign necessarily has distinctive character for the purposes of Article 7(1)(b) of the regulation in relation to a specific product or service (Joined Cases C-456/01 P and C-457/01 P *Henkel v OHIM* [2004] ECR I-5089, paragraph 32).
>
> 30. Under that provision, marks which are devoid of any distinctive character are not to be registered.
>
> 31. According to settled case-law, for a trade mark to possess distinctive character for the purposes of that provision, it must serve to identify the product in respect of which registration is applied for as originating from a particular undertaking, and thus to distinguish that product from those of other undertakings (Henkel v OHIM, paragraph 34; Case C-304/06 P *Eurohypo v OHIM* [2008] ECR I-3297, paragraph 66; and Case C-398/08 P *Audi v OHIM* [2010] ECR I-0000, paragraph 33).
>
> 32. It is settled case-law that that distinctive character must be assessed, first, by reference to the goods or services in respect of which registration has been applied for and, second, by reference to the perception of them by the relevant public (*Storck v OHIM*, paragraph 25; *Henkel v OHIM*, paragraph 35; and *Eurohypo v OHIM,* paragraph 67). Furthermore, the Court has held, as OHIM points out in its appeal, that that method of assessment is also applicable to an analysis of the distinctive character of signs consisting solely of a colour per se,

three-dimensional marks and slogans (see, to that effect, respectively, Case C-447/02 P *KWS Saat v OHIM* [2004] ECR I-10107, paragraph 78; *Storck v OHIM*, paragraph 26; and *Audi v OHIM*, paragraphs 35 and 36).

33. However, while the criteria for the assessment of distinctive character are the same for different categories of marks, it may be that, for the purposes of applying those criteria, the relevant public's perception is not necessarily the same in relation to each of those categories and it could therefore prove more difficult to establish distinctiveness in relation to marks of certain categories as compared with marks of other categories (see Joined Cases C-473/01 P and C-474/01 P *Proctor & Gamble v OHIM* [2004] ECR I-5173, paragraph 36; Case C-64/02 P *OHIM v Erpo Möbelwerk* [2004] ECR I-10031, paragraph 34*; Henkel v OHIM*, paragraphs 36 and 38; and *Audi v OHIM*, paragraph 37)."

51. As previously stated, I bear in mind that the considerations under sections 3(1)(b) and (c) are different such that a mark found not to fall foul of the latter ground because it does not designate a characteristic of the goods may nevertheless fall foul of the former ground because it is non-distinctive for some other reason. However, having regard for the above case-law, it is not clear to me why the mark 'pawrent' should be deemed to be non-distinctive in relation to the relevant goods and services despite not being descriptive of a characteristic thereof. In my view, the unusual nature of the combination of 'paw' and 'rent' and the sufficiently vague meaning that the word 'pawrent' sends, renders the mark, as a whole, capable of serving to identify the goods and services in respect of which registration is sought, as originating from a particular undertaking, and thus to distinguish those goods and services from those of other undertakings.

52. The opposition under Section 3(1)(b) fails.

Conclusion

53. The opposition has failed on all grounds. Subject to any successful appeal, the application by Pawrent, Inc., may proceed to registration.

COSTS

54. The applicant has been successful and is entitled to an award of costs. As the applicant had not instructed professional representatives, they were invited by the Tribunal to indicate whether they intended to make a request for an award of costs, including accurate estimates of the number of hours spent on a range of given activities relating to defending the proceedings. On 26 May 2025, the applicant submitted a pro-forma for the following award of costs:

1. Time Spent Preparing Defense and Evidence

Description of Activity	Time Spent
Preparing Notice of Defense	4 hours
Preparing evidence	16 hours
Reviewing opponent's filings	5 hours
Legal research and comparison with other trademarks	6 hours
Collecting and organizing documentary exhibits	8 hours
Reviewing and finalizing defense submission	3 hours
Corresponding with legal counsel	1 hour
Subtotal Time	**43 hours**

Hourly Rate: £60/hour
Total Time-Based Costs: £2,580

Note: The above work reflects my over 22 years of trademark law experience, including registering and managing all my company's trademarks since 2001. Although I am not charging professional legal fees, the rate requested reflects fair compensation for my IP expertise and time diverted from business operations due to this opposition.

2. Legal Expenses

Description	Cost
Consultation with my UK solicitor (1 hr. phone call) hourly rate £325)	**£260**

3. Other Expenses

Description	Cost
Adding on an International phone calling plan to my T-Mobile account for legal communications and UK Office International calling (£25 × 12 months)	**£300**

4. Total Costs Sought

Category	Amount
Time-Based Costs	£2,580
Legal Fees	£260
Other Expenses	£300
Total	**£3,140**

55. In regard to the applicant's above request for an award of costs 'off the scale', Mr Myers submits that the opposition was pursued in bad faith and conducted in a manner that was disruptive, and deliberately burdensome. As a result, he submits that this imposed significant and avoidable time, cost, and stress in defending his trademark.

56. In particular, Mr Myers alleges that the opponent:

- Made materially false claims, including alleging affiliation with a "community council" without legitimate evidence;

- Failed to meaningfully engage with or rebut any of his evidence in defence, including proof of long-standing commercial use, global registration, and the coined nature of ‘pawrent’;

- Submitted exaggerated and unsupported claims, including fabricated social media statistics and unreliable sources;

- Caused disruption to his business through procedural delays and unsupported filings, resulting in avoidable legal and administrative burden; and

- Engaged in conduct that has caused unnecessary expense and amounts to an abuse of the tribunal's process.

57. Mr Myers adds that, given the unsubstantiated and potentially vexatious nature of the opposition, he respectfully requests that the Tribunal award costs at the higher rate, in the interest of justice and deterrence against such conduct.

58. Further to the Tribunal Cost Pro Forma filed by the applicant, in their submissions,[24] the opponent categorically rejects the applicant’s accusation that the opposition was pursued in bad faith, explaining that their motivation was to protect the interests of the broader community, particularly in preventing the monopolisation of a colloquially and widely used term, by a single party, and was never an attempt to target an individual. On this basis the opponent requests that no award of higher costs be granted to the applicant.

[24] Written submissions in lieu of a hearing, dated 27 May 2025.

Statutory provisions

59. Section 68 of the Act and Rule 67 of the Trade Marks Rules 2008 read as follows:

> "68. (1) Provision may be made by rules empowering the registrar, in any proceedings before him under this Act –
>
> (a) to award any party such costs as he may consider reasonable, and
>
> (b) to direct how and by what parties they are to be paid."
>
> and
>
> "67. The registrar may, in any proceedings under the Act or these Rules, by order award to any party such costs as the registrar may consider reasonable, and direct how and by what parties they are to be paid."

60. Various Tribunal Practice Notices ("TPNs") have also been issued over the years in relation to the award for costs in proceedings. In particular, I take note of TPN 1/2023, which, at Annex A, sets out the headings of the activities upon which any contribution of costs is to be assessed, which reads as follows:

Annex A

Scale of costs in proceedings commenced on or after 1 February 2023

Task	Costs
Preparing a statement and considering the other side's statement	From £250 to £750 depending on the nature of the statements, for example their complexity and relevance
Preparing evidence and considering and commenting on the other side's evidence	From £600 if the evidence is light to £2600 if the evidence is substantial. The award could go above this range in exceptionally large cases but will be cut down if the successful party had filed a significant amount of unnecessary evidence
Preparing for and attending a hearing (including procedural hearings) or submissions-in-lieu	Up to £1900 per day of hearing, capped at £3900 for the full hearing unless one side has behaved unreasonably. From £350 to £650 for preparation of submissions, depending on their substance, if there is no oral hearing
Expenses	(a) Official fees arising from the action and paid by the successful party (other than fees for extensions of time) (b) The reasonable travel and accommodation expenses for any witnesses of the successful party required to attend a hearing for cross examination

61. Section (2) and (3) of TPN 1/2023 explains that the updates made to the scale of costs maintain an underlying contribution-not-compensation approach, as below:

> "**Continued use of a published scale**
>
> 2. The Tribunal will continue with its practice that costs should be determined by reference to a scale, with an underlying "contribution-not-compensation" approach. This provides transparency to parties considering litigation before the Tribunal about their potential costs liability if they were to lose, and what level of contribution a successful party might receive for any justifiably incurred costs. The scale therefore sets out the scale which would be "treated as norms to be applied",[25] but also indicates a range of costs commensurate with, e.g., the complexity of statements of case, the amount of evidence and the number of hearing days.
>
> 3. Annex A contains a revised scale of costs, which are the first increases since 2016. The new scale will apply to proceedings commenced on, or after, 1 February 2023."

62. TPN 1/2023 maintains that off scale costs may be given in certain circumstances, the relevant section of which is copied below:

> "**Off-scale costs**
>
> 5. Notwithstanding the published scale, the Tribunal retains the discretion to award costs "off the scale" to deal proportionately with unreasonable behaviour. It is not possible to set out all the circumstances in which a Hearing Officer might depart from the scale. It is worth clarifying though that just because a party has lost, this in itself is not indicative of unreasonable behaviour. Some examples of what might constitute unreasonable behaviour include a party

[25] *AMARO GAYO COFFEE* Trade Mark BL O/257/18 at para 13

seeking an (avoidable) amendment to its statement of case which, if granted, would cause the other party to have to amend its statement or would lead to the filing of further evidence. Other examples include behaviour designed to delay, frustrate or unreasonably increase the costs/burden on the other party and/or repeated breaches of procedural rules. Off-scale costs may also be awarded if a losing party unreasonably rejected efforts to settle a dispute before an action was launched or a hearing held, or unreasonably declined the opportunity of an appropriate form of Alternative Dispute Resolution.

6. The level of off-scale costs will, generally speaking, be commensurate with the extra expenditure a party has incurred as a result of the unreasonable behaviour. Any claim for costs approaching full compensation or for "extra costs" will need to be supported by a bill itemizing the actual costs incurred. There may be some circumstances where costs below the minimum indicated by the published scale are awarded. For example, a party who does not follow a suggestion from the Hearing Officer as to the most efficient means of managing the case, may only be entitled to whatever award they would have received if they had followed the Hearing Officer's suggestion."

63. Furthermore, TPN 1/2023 stipulates that where an award is to be made in favour of an unrepresented party, Hearing Officers will consider the information provided when determining the sum to be awarded. The number of hours claimed will not, however, be binding on Hearing Officers, who will continue to assess whether the time spent was reasonable in the circumstances of the case and who will retain a residual discretion in any event. The sum to be awarded per hour will be analogous to that set out in the Civil Procedure Rules, Part 46, which is currently £19 per hour. The total amount awarded should, though, not exceed the maximum amount payable on the scale of costs (unless off-scale costs are sought).

DECISION - *off scale costs*

64. I will address first the conduct of the opponent. The applicant claims that the opposition was pursued in bad faith and conducted in a manner that was disruptive, and deliberately burdensome. The applicant adds that given the unsubstantiated and

potentially vexatious nature of the opposition, in the interest of justice and deterrence against such conduct, the Tribunal are requested to award costs at the higher rate.

65. However, from the evidence I have before me, I am not satisfied that it demonstrates that the opposition was pursued in bad faith or that it was conducted in a manner that was disruptive, deliberately burdensome or vexatious in nature. Whilst I understand the applicant's frustration in having to defend their application, I do not consider that they suffered any unfair treatment, or that the opponent has caused any unreasonable delays. Accordingly, accepting that the applicant is entitled to a costs award in their favour, with the consideration of the factors above, I am not satisfied that there are sufficient reasons to justify awarding costs off the standard scale and so I decline to do so. The opponent's behaviour has not been unreasonable to warrant anything other than on-scale costs for the applicant.

Costs on the scale

66. Having concluded that there is nothing to suggest that an off-scale award of costs is appropriate, I am guided in this decision by the scale of costs set out in TPN 1/2023 above, as well as the guidance on how costs should be allocated to unrepresented parties such as the applicant.

67. First and foremost, I remind myself that the Tribunal awards costs on a contributory rather than a compensatory basis. It is important to note that only costs which have been incurred during, and as part of, these proceedings are relevant, such as filing official forms, evidence, written submissions etc.

68. I also take into account Mr Hobbs QC's (as he then was) comments in *Amaro*, O/257/18:

> "17. […] an award of costs is required to reflect the effort and expenditure to which it relates without inflation for the purpose of imposing a financial penalty by way of punishment on the paying party. The determination of a 'reasonable' amount to award must depend on the nature and circumstances of the case at hand."

69. I accept that Mr Myers, on behalf of the applicant, as a litigant in person, spent time familiarising himself with the relevant law and issues of the case, and the grounds relied upon by the opponent. Additionally, I accept that an unrepresented party would take longer to prepare and consider documents than a solicitor or trade mark attorney. However, I do not consider the opponent's notice of opposition to be particularly complex, nor do I consider that their statement of grounds or written submissions in lieu of a hearing are unnecessarily excessive in length.

70. Accordingly, bearing this in mind and reminding myself that the Civil Procedure Rules Part 46 and the associated Practice Direction set the amount payable to litigants in person at £19 per hour, I see no reason to award anything other than this. In accordance with Annex A of TPN 1/2023, I award costs to the applicant on the following basis:

Preparing a statement and considering the other side's statement (4 hours):	£76
Preparing evidence and considering and commenting on the other side's evidence (16 hours):	£304
Total:	**£380**

71. I order Zeonyc to pay Pawrent, Inc. the sum of £380. This sum should be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings.

Dated this 17th day of October 2025

Sam Congreve
For the Registrar