O/1049/25

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. 4022193
IN THE NAME OF GUANGZHOU BISON GARMENT CO., LTD.
TO REGISTER THE FOLLOWING TRADE MARK:

IN CLASSES 14, 18 & 25

AND

IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 449279
BY PWT A/S

Background and pleadings

1. On 5 March 2024, GUANGZHOU BISON GARMENT CO., LTD. ("the applicant") applied to register the trade mark displayed on the cover page of this decision in the UK, under number 4022193 ("the applicant's mark"). Registration is sought for the following goods:

Class 14: Precious stones; pearls; jewellery; jewellery boxes of precious metal; metal works of art [precious metal]; gold, unworked or semi-worked; semi-precious stones; diamonds; wristwatches; wristlet watches.

Class 18: Bags; rucksacks; pocket wallets; travelling bags; school bags; leather, unworked or semi-worked; imitation leather; animal skins; trunks [luggage]; umbrellas.

Class 25: Clothing; underwear; trousers; sports jerseys; coats; shoes; gloves [clothing]; hats; hosiery; overcoats.

2. The applicant's mark was accepted and published for opposition purposes on 24 May 2024. On 27 August 2024, PWT A/S ("the opponent") opposed the applicant's mark, in its entirety, under section 5(2)(b) of the Trade Marks Act 1994 ("the Act"). The opponent relies upon the following trade marks:[1]

(i) BISON

UK registration no. 901967199

Filing date: 22 November 2000

Registration date: 27 August 2002

[1] The opponent's marks are all comparable marks based upon the opponent's EU trade mark nos. 1967199, 3784543 and 13796438. On 1 January 2021, these comparable marks were automatically created in accordance with Article 54 of the Withdrawal Agreement between the UK and EU. They are now recorded on the UK register, have the same legal status as if they had been applied for and registered under UK law, and retain their original filing dates.

Relying on some goods, namely:

Class 18: Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.

Class 25: Clothing, footwear, headgear.

(ii) **BISON**

UK registration no. 903784543

Filing date: 28 April 2004

Registration date: 28 July 2005

Relying on some goods, namely:

Class 18: Leather and imitations of leather, and goods made of these materials, namely bags, trunks, vanity cases, luggage tags, briefcases, purses, straps and laces and boxes; trunks and travelling bags; travelling sets leatherware; handbags and pouches; travelling bags, garment bags for travel, vanity cases not fitted, rucksacks, gym bags, beach bags, shopping bags, shoulder bags, satchels, canvas travelling bags, briefcases, cases, of leather or leatherboard, briefcases, pouches, of leather, for packaging, wallets, baggage, key cases of leather not included in other classes, umbrellas, parasols, walking sticks, walking stick seats.

Class 25: Clothing, footwear, headgear.

(iii) 

UK registration no. 913796438

Filing date: 5 March 2015

Registration date: 13 August 2015

Relying on some goods, namely:

Class 14: Jewellery, jewellery of precious metals and their alloys, articles of imitation jewellery, jewellery of common metals and their alloys, jewellery of leather, pearls and pendants for jewellery, including pearls and pendants for bracelets and necklaces, cuff links, tie pins, precious stones, non-precious stones, wrist watches, clocks, key rings (jewellery); jewellery; horological and chronometric instruments; key fobs of leather.

Class 18: Leather and imitations of leather, and goods made of these materials, namely bags, trunks, vanity cases, luggage tags, briefcases, purses, straps and laces and boxes; trunks and travelling bags; travelling sets (leatherware); handbags and pouches; travelling bags, garment bags for travel, vanity cases (not fitted), rucksacks, gym bags, beach bags, shopping bags, shoulder bags, satchels, canvas travelling bags, briefcases, cases, of leather or leatherboard, briefcases, pouches, of leather, for packaging, wallets, baggage, key cases of leather (not included in other classes), umbrellas, parasols, walking sticks, walking stick seats.

Class 25: Clothing, footwear, headgear.

3. Each of the opponent's marks qualifies as an 'earlier mark' in accordance with section 6 of the Act. As they had all been registered for more than five years at the filing date of the applicant's mark, they are subject to the use requirements contained in section 6A of the Act.

4. In its statement of grounds, the opponent contends that the applicant's mark is similar to each of its marks. Moreover, it argues that the parties' goods are identical or similar. On this basis, the opponent submits that there is a likelihood of confusion. It also made a statement of use in respect of all the goods relied upon.

5. The applicant filed a counterstatement, denying the ground of opposition. It also requested proof of use for each of the opponent's marks.

6. Both parties are professionally represented; the opponent by Patrade A/S and the applicant by Trademarkit LLP. Only the opponent filed evidence. No hearing was requested and neither party filed written submissions in lieu. This decision is taken following careful consideration of all the papers before me.

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

8. The opponent's evidence is given in the witness statement of Sabrina Uhrenholt, dated 19 February 2025, together with 10 exhibits. Ms Uhrenholt is a partner of the opponent's representatives. She provides evidence of use of the opponent's marks.

9. I have taken all the evidence into account in reaching my decision and will refer to it below where necessary.

Proof of use

10. Section 6A of the Act reads as follows:

> "(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.
>
> (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."

11. Pursuant to the above provisions, the relevant period for assessing whether there has been genuine use of the opponent's marks is the five-year period ending with the filing date of the applicant's mark, i.e. 6 March 2019 to 5 March 2024.

12. As the opponent's marks are comparable marks, it may rely upon use of the marks in the EU for the part of the relevant period which came before IP Completion Day, that being 31 December 2020.[2]

13. 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

[2] Part 1, Schedule 2A of the Act, paragraph 7

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 Merken 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 sub-category 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]."

14. Section 100 of the Act is also relevant. It states:

"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."

The evidence

15. Ms Uhrenholt gives evidence that the opponent has continuously used its marks in the UK since 2020. In support of this statement, she provides a selection of invoices, dated between 2 March 2020 and 23 November 2023.[3] These show regular and consistent sales of a range of men's t-shirts, shirts, knitwear, jeans, gloves and scarves to two customers based in Watford and London. A small number from 2023 are credit notes showing negative quantities of goods, suggesting that these may have been returns rather than sales. However, the vast majority of the invoices are clearly sales.

16. Although there is no use of the opponent's marks within the invoices, Ms Uhrenholt has also provided 'BISON' product catalogues from Winter 2020, Spring and Winter 2021, Spring and Winter 2022, and Spring/Summer and Winter 2023.[4] The product codes in some of the invoices match those contained in the product catalogues. In combination, this evidence demonstrates that at least some of the goods in the invoices were men's clothing products offered for sale under the 'BISON' mark. These include t-shirts, jeans, polo shirts, cardigans and gloves. Whilst there are more goods

[3] Exhibits 1-4
[4] Exhibits 5-8

in the catalogues (such as, for example, pyjamas, hats and jackets), there is no evidence that any were sold during the relevant period. There is use of the word 'BISON' in plain font within the catalogues and on some of the goods themselves. Moreover, there are numerous instances of the word being presented in the following format (in a number of different colourways):

17. The following turnover information, relating to the sale of clothing under the opponent's marks in the UK, has been evidenced through the provision of transaction spreadsheets:[5]

Year	Units	Turnover ($)
2020	6,913	38,621
2021	11,850	96,096
2022	2,600	15,276
2023	1,388	6,898
Total	22,751	156,891

18. Ms Uhrenholt says that the opponent reaches out to current and potential distributors in the UK when new collections are launched, demonstrating that its marks are "actively pushed". In this connection, an email from the opponent's export manager, dated 27 June 2022, has been provided; it contains links to, *inter alia*, the 'BISON' Spring/Summer 2023 collection.[6] The export manager says that they "[…] look very much forward to presenting the collection […]" and gives a deadline for final orders. There are no recipient details. However, I accept that this is an example of the kind of communications that Ms Uhrenholt says the opponent engages in with UK distributors.

[5] Exhibit 9
[6] Exhibit 10

Sufficient use

19. The evidence is limited in a number of ways. For instance, there is no indication of the size of the relevant market or the share of the same held by 'BISON' goods. Moreover, there is little evidence showing actual use of the opponent's marks. Further, there are no details as to the amounts (if any) spent on promoting the opponent's marks in the UK and, aside from the emails referred to above, there is no evidence of any promotional activities being conducted. The unchallenged figures provided by Ms Uhrenholt demonstrate that over 20,000 clothing products were sold in the UK during the relevant period, generating a turnover of over $150,000; my own understanding is that the clothing market in the UK is extremely large, meaning that this is likely to represent a very small share of the same. In addition, the invoices were only sent to two customers during the relevant period.

20. Nevertheless, an assessment of genuine use is a global assessment, which involves looking at the evidential picture as a whole.[7] The authorities are also clear that use does not have to be quantitatively significant for it to be genuine; the purpose of the use provisions is not to assess economic success or large-scale commercial use. It is clear from the invoices and the product catalogues that 'BISON' clothing was sold in the UK during the relevant period, albeit that the aforementioned figures represent small-scale use. It is also not fatal to the opponent's case that only two customers are shown in the invoices. Firstly, Ms Uhrenholt says that the invoices are a selection of invoices, i.e. they do not represent every sale made. In addition, Ms Uhrenholt's narrative suggests that these customers were distributors, meaning that 'BISON' products may have reached the market through more than just two outlets. It has been held that use of a mark by a single client which imports the 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 of the mark.[8] Sales to these customers were regular and consistent throughout most of the relevant period. Taking all the evidence into account, I am satisfied that the opponent has

[7] *New Yorker SHK Jeans GmbH & Co KG v OHIM*, Case T-415/09
[8] *Ansul*, paragraph 24

attempted to create and maintain a market for ‘BISON’ clothing products during the relevant period.

Form of the marks

21. It will be recalled that the opponent relies upon three marks in these proceedings, namely:

(i) BISON;

(ii) ‘BISON’; and

(iii) 

22. As previously indicated, use of the word ‘BISON’ in plain font can be seen in the product catalogues. This is clearly use of mark (ii) as registered. I also consider the evidenced mark shown at paragraph 16 above to be acceptable variant use of mark (ii) as registered. As a word-only mark, the distinctive character of mark (ii) lies in the word itself. The particular presentation of the evidenced mark constitutes an expression of that word in normal and fair use.[9] This mark may be relied upon for the purposes of the opposition.

23. Moreover, I consider use of the word ‘BISON’ in plain font to be acceptable variant use of mark (i). I acknowledge that the word in the mark as registered is very slightly stylised, with horizontal flourishes added to the top of some of the letters, a feature which is missing from the evidenced use in plain font. However, the distinctive character of the mark as registered overwhelmingly lies in the word ‘BISON’. I do not consider that the removal of the very slight stylisation alters the distinctive character

[9] *Dreamersclub Ltd v KTS Group Ltd*, BL O/091/19

of the mark as a whole.[10] This mark may also be relied upon for the purposes of the opposition.

24. As for mark (iii), there are no instances of the mark being used as registered. Further, I am not satisfied that use of either the word 'BISON' in plain font or the evidenced mark shown at paragraph 16 constitutes acceptable variant use of the same. The distinctive character of the mark as registered does not solely lie in the word 'BISON'; the device, albeit figuratively representing a bison, also materially contributes to its distinctiveness. Therefore, although the removal of the font (in the case of the plain font use) and the strapline 'AUTHENTIC SPORTSWEAR SINCE 1961' (in the case of both evidenced marks) does not alter the distinctive character of the mark as a whole, the removal of the device does. This mark may not be relied upon for the purposes of the opposition.

Fair specification

25. I must now determine a fair specification for the opponent's marks. In doing so, I bear in mind that fair protection is not achieved by defining the particular examples of goods for which there has been genuine use but, rather, the particular categories of goods they should realistically be taken to exemplify.[11] The task is not to describe the use made by the trade mark proprietor in the narrowest possible terms, unless that is what the average consumer would do.[12]

26. The evidence shows that the opponent has used its marks in connection with a range of men's clothing items, including t-shirts, polo shirts, jeans, cardigans and gloves. The opponent's mark stands registered for *clothing*, which is an extremely broad category of goods capable of being divided into a number of different subcategories. The goods shown in evidence are all items of men's clothing; there are no instances of women's or children's clothing being sold. In my view, the goods shown in evidence would be described by the average consumer as *men's clothing*. Given

[10] *Lactalis McLelland Limited v Arla Foods AMBA*, BL O/265/22
[11] *Euro Gida Sanayi Ve Ticaret Limited v Gima (UK) Limited,* BL O/345/10
[12] *Property Renaissance Ltd (t/a Titanic Spa) v Stanley Dock Hotel Ltd (t/a Titanic Hotel Liverpool) & Ors* [2016] EWHC 3103 (Ch)

the range of different men's clothing items shown, I do not consider it appropriate to restrict them further.

27. There are no instances of any other goods in the opponent's specification being sold during the relevant period. The opponent may not rely upon any of the remaining goods in class 25 or any of the goods in class 18.

28. In light of all the above, I find that *men's clothing* in class 25 represents a fair specification for the opponent's marks.

My approach

29. The goods framed by the fair specification are the same for both of the opponent's marks. Further, mark (i) is arguably less similar (or, at least, no more similar) to the applicant's mark than mark (ii). Consequently, I will proceed on the basis of mark (ii) only (hereafter referring to it as "the opponent's mark"). If the opposition fails on the basis of this mark, the other mark relied upon will not improve the opponent's position.

Section 5(2)(b) – legislation and case law

30. Sections 5(2)(b) and 5A of the Act read as follows:

> "5(2) A trade mark shall not be registered if because -
>
> […]
>
> (b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected,
>
> there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark."

"5A Where grounds for refusal of an application for registration of a trade mark exist in respect of only some of the goods or services in respect of which the trade mark is applied for, the application is to be refused in relation to those goods and services only."

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

(a) The likelihood of confusion must be appreciated globally, taking account of all relevant factors;

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

(e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;

(f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

(g) a lesser degree of similarity between the goods or services may be offset by a great degree of similarity between the marks, and vice versa;

(h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has been made of it;

(i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;

(j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense;

(k) if the association between the marks creates a risk that the public might believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

Comparison of goods

32. In *Canon*, the Court of Justice of the European Union ("CJEU") stated, at paragraph 23 of its judgment, that:

> "In assessing the similarity of the goods or services concerned, […] all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, inter alia, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary."

33. The relevant factors identified by Jacob J (as he then was) in *British Sugar Plc v James Robertson & Sons Limited* [1996] RPC 281 for assessing similarity were:

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

34. In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods. In *Boston Scientific Ltd v OHIM,* Case T-325/06, the General Court ("GC") stated that 'complementary' means:

> "[…] there is a close connection between them, in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods lies with the same undertaking."

35. In *Gérard Meric v OHIM,* Case T- 133/05, the GC stated that:

> "29. In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by trade mark application (Case T-388/00 *Institut fur Lernsysteme v OHIM- Educational Services (ELS)* [2002] ECR II-4301, paragraph 53) or where the goods designated by the trade mark application are included in a more general category designated by the earlier mark."

36. The goods to be compared are as follows:

The applicant's goods	**The opponent's goods**
Class 14: Precious stones; pearls; jewellery; jewellery boxes of precious metal; metal works of art [precious metal]; gold, unworked or semi-worked; semi-precious stones; diamonds; wristwatches; wristlet watches. Class 18: Bags; rucksacks; pocket wallets; travelling bags; school bags; leather, unworked or semi-worked; imitation leather; animal skins; trunks [luggage]; umbrellas. Class 25: Clothing; underwear; trousers; sports jerseys; coats; shoes; gloves [clothing]; hats; hosiery; overcoats.	Class 25: Men's clothing.

<u>Class 14</u>

Precious stones; pearls; jewellery boxes of precious metal; metal works of art [precious metal]; gold, unworked or semi-worked; semi-precious stones; diamonds

37. The opponent has not explained why it considers these goods to be similar to its goods. To my mind, there are no obvious points of similarity when compared with *men's cloothing*. The nature, method of use and intended purpose is entirely different. The respective goods do not typically reach the market through the same trade channels. It is my impression that they are usually produced by different undertakings. There is clearly no competition between the respective goods; they are in no way interchangeable. Moreover, they are not complementary in the sense outlined in the authorities. I accept that the respective goods may have overlapping users. However, this is at far too general a level to engage any meaningful similarity between the respective goods, overall. In light of all this, I find that the respective goods are dissimilar.

Jewellery; wristwatches; wristlet watches

38. In *Compagnie des montres Longines, Francillon SA v OHIM*, Case T-505/12, the GC considered whether jewellery and watches were similar to clothing. Whilst the GC acknowledged that such goods were sold under the same marks as high-end clothing and that there was a certain proximity between them, it pointed out that they differ in nature, intended purpose and method of use. The goods were said to be manufactured from different materials. Clothing was said to be purchased in order to cover, conceal, protect and adorn the body, whereas jewellery was said to be ornamental and watches for telling the time. The GC held that, given the differences in purpose and method of use, there was no competition between the goods. With respect to complementarity, the GC stated that:

> "59. Furthermore, according to the case-law, aesthetic complementarity between goods may give rise to a degree of similarity for the purposes of Article 8(1)(b) of Regulation No 207/2009. Such aesthetic complementarity must involve a genuine aesthetic necessity, in the sense that one product is indispensable or important for the use of the other and consumers consider it ordinary and natural to use those products together. That aesthetic complementarity is subjective and is determined by the habits and preferences of consumers, to which producers' marketing strategies or even simple fashion

trends may give rise (see judgment in *Emidio Tucci*, cited in paragraph 48 above, EU:T:2012:499, paragraph 51 and the case-law cited).

60. However, it is important to point out that the mere existence of aesthetic complementarity between the goods is not sufficient to conclude that there is a similarity between them. For that, the consumers must consider it usual that the goods are sold under the same trade mark, which normally implies that a large number of the producers or distributors of the goods are the same (see judgment in *Emidio Tucci*, cited in paragraph 48 above, EU:T:2012:499, paragraph 52 and the case-law cited).

39. Similar comments were also made by the GC in *Oakley Inc. v OHIM*, Case T-116/06:

"86. The intervener's argument that eyewear, jewellery and watches could be similar or complementary to items of clothing cannot succeed, since, as correctly pointed out by OHIM, the relationship between those goods is too indirect to be regarded as conclusive. It must be borne in mind that the search for a certain aesthetic harmony in clothing is a common feature in the entire fashion and clothing sector and is too general a factor to justify, by itself, a finding that all the goods concerned are complementary and, thus, similar."

40. In light of the above guidance, I find that there is no similarity between the respective goods.

Class 18

Bags

41. In *Gitana SA, v OHIM*, Case T-569/11, the GC stated that:

"45. Moreover, in respect of the relationship between the 'goods in leather and imitations of leather' in Class 18 covered by the trade mark sought and the goods in Class 25 covered by the earlier mark, it is apparent also from settled

case-law that the ‘goods in leather and imitations of leather’ include clothing accessories such as ‘bags or wallets’ made from that raw material and which, as such, contribute, with clothing and other clothing goods, to the external image (‘look’) of the consumer concerned, that is to say coordination of its various components at the design stage or when they are purchased. Furthermore, the fact that those goods are often sold in the same specialist sales outlets is likely to facilitate the perception by the relevant consumer of the close connections between them and support the impression that the same undertaking is responsible for the production of those goods. It follows that some consumers may perceive a close connection between clothing, footwear and headgear in Class 25 and certain ‘goods made of these materials [leather and imitations of leather] and not included in other classes’ in Class 18 which are clothing accessories. Consequently, clothing, shoes and headgear in Class 25 bear more than a slight degree of similarity to a category of ‘goods made of these materials [leather and imitations of leather] and not included in other classes’ in Class 18 consisting of clothing accessories made of those materials (see, to that effect, *PiraÑAM diseño original Juan Bolaños*, paragraph 42 above, paragraphs 49 to 51; *exē*, paragraph 42 above, paragraph 32; and *GIORDANO*, paragraph 42 above, paragraphs 25 to 27).”

42. *Bags* is a broad term that includes shoulder bags and other bags which could be conceived by consumers as aesthetically complementary accessories to *men’s clothing*. The respective goods are typically sold in the same outlets and consumers are likely to expect them to be produced by the same undertakings. As a result, I find that there is a low degree of similarity between the respective goods.

Rucksacks; pocket wallets; travelling bags; school bags; trunks [luggage]

43. It is my view that the position differs for these goods than those discussed at paragraph 42. Although at least some of these goods are also bags, I do not consider that they would be sought by consumers to create a coordinated look with *men’s clothing*. I am not satisfied that the respective goods can be said to reach the market through the same trade channels; even when sold in the same outlets, they are likely

to be located in different sections. Overall, I find that there is no similarity between the respective goods.

Leather, unworked or semi-worked; imitation leather; animal skins

44. I accept that these goods describe different materials which may be used in the manufacture of some of the opponent's goods; it is not uncommon for some items of *men's clothing* to be made from leather. Nevertheless, the mere fact that a good is used as a part or component of another good is not sufficient, in and of itself, to establish that they are similar, since their nature, purpose and users may be different.[13] I consider that to be the case here. The respective goods are not in competition. Moreover, they are not complementary; even acknowledging that they are important to one another (in the sense that the component materials are important to the manufacture of the finished products), consumers are unlikely to believe that responsibility for them lies with the same undertakings. Taking all of this into account, I find that there is no similarity between the respective goods.

Umbrellas

45. The goods above differ in nature, purpose and method of use when compared with *men's clothing*. Although they may both be sold by large retailers, they are likely to be found in different sections of those outlets. Given that the respective goods have different purposes and uses, they are not in competition. Neither do I consider them to be complementary, since they are not important or indispensable to one another. I acknowledge that the respective goods overlap in user. However, that is based on an extremely large user base, i.e. the general public, so does not result in any meaningful similarity. In light of all this, I find that the respective goods are dissimilar.

Class 25

Clothing

[13] *Les Éditions Albert René v OHIM*, Case T-336/03

46. This is a broad category of goods which encompasses all kinds of clothing, including *men's clothing*. These goods are to be regarded as identical in accordance with *Meric*.

Underwear; trousers; sports jerseys; coats; gloves [clothing]; overcoats

47. These goods include those designed for men. They fall within the scope of, or overlap with, *men's clothing*. The respective goods are identical under the principle outlined in *Meric*.

Hosiery

48. The above term is defined as a word used, particularly in shops, for things such as socks, tights and stockings.[14] To my mind, and there being no evidence to the contrary, these goods could cover such items for men. As such, I find that these goods are identical to *men's clothing* under the *Meric* principle.

Hats

49. The above goods overlap in nature and purpose with *men's clothing* because they can be made from similar materials and are both worn on the body for practical purposes, such as covering the body or keeping warm. The respective goods also share users. The goods differ in method of use; one is worn on the head, whilst the other is worn on the body. In this connection, there is no competition between the respective goods; hats are designed for the head and will not be purchased for wearing elsewhere on the body. The respective goods reach the market through the same trade channels. They may be produced by the same undertakings and are commonly found in the same retail outlets. Even though the goods may be offered by the same undertakings, they are not complementary. This is because they are not important or indispensable to the use of one another. In light of all the above, I find that there is a medium degree of similarity between the respective goods.

[14] https://dictionary.cambridge.org/dictionary/english/hosiery

Shoes

50. These goods and *men's clothing* differ in nature; shoes are typically made of different materials which protect the feet outdoors. The method of use also differs since shoes are typically worn on the feet and clothing is worn on the body. There is an overlap in intended purpose, however, as both are used to cover the feet/body for practical purposes. The goods typically reach the market through the same trade channels. They are sold in the same retail outlets and are often produced by the same undertakings. The respective goods also share users. The goods are not complementary because they are not important or indispensable to the use of one another. There is also no competition between them as shoes and clothing are not interchangeable. Overall, I find that there is a medium degree of similarity between the respective goods.

Outcome of goods comparison

51. Some degree of similarity between goods is necessary to engage the test for likelihood of confusion; if there is no similarity at all, there is no likelihood of confusion to be considered.[15] My findings above mean that the opposition must fail in respect of the following goods:

Class 14: Precious stones; pearls; jewellery; jewellery boxes of precious metal; metal works of art [precious metal]; gold, unworked or semi-worked; semi-precious stones; diamonds; wristwatches; wristlet watches.

Class 18: Rucksacks; pocket wallets; travelling bags; school bags; leather, unworked or semi-worked; imitation leather; animal skins; trunks [luggage]; umbrellas.

52. For the avoidance of doubt, the remainder of this decision will only focus on the goods for which there is at least some similarity with the opponent's goods, namely:

[15] *eSure Insurance v Direct Line Insurance* [2008] ETMR 77 CA

Class 18: Bags.

Class 25: Clothing; underwear; trousers; sports jerseys; coats; shoes; gloves [clothing]; hats; hosiery; overcoats.

Average consumer

53. As the authorities indicate, I must determine who the average consumer is for the parties' goods and how they are likely to select those goods. The average consumer has been described in the following terms:[16]

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

54. The average consumer of the goods at issue is a member of the general public. The goods are likely to be purchased relatively frequently. Although the associated cost may vary, overall, they are relatively inexpensive and, as such, the purchasing process will not require an overly considered thought process. That being said, the average consumer will consider factors such as style, quality, size, fit and compatibility with other items when making a selection. In light of the foregoing, I find that the average consumer will demonstrate a medium level of attention.

55. The goods are typically sold in physical retail establishments and their online equivalents, where the goods are self-selected from rails and shelves, or after viewing images and information on webpages. As the GC stated in *New Look Limited v OHIM*, Cases T-117/03 to T-119/03 and T-171/03:

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

> "50. […] Generally in clothes shops customers can themselves either choose the clothes they wish to buy or be assisted by the sales staff. Whilst oral communication in respect of the product and the trade mark is not excluded, the choice of the item of clothing is generally made visually. Therefore, the visual perception of the marks in question will generally take place prior to purchase. Accordingly the visual aspect plays a greater role in the global assessment of the likelihood of confusion."

56. In accordance with this, I find that visual considerations will dominate the purchasing process, but I do not discount aural considerations entirely.

Distinctive character of the earlier mark

57. In *Lloyd Schuhfabrik Meyer*, the CJEU stated that:

> "22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-0000, paragraph 49).
>
> 23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51)."

58. Registered trade marks possess varying degrees of inherent distinctive character. The degree of distinctiveness is an important factor as it directly relates to whether there is a likelihood of confusion; the more distinctive the earlier mark, the greater the likelihood of confusion.

59. The opponent's mark consists of the word 'BISON'. As a word-only mark, its distinctiveness lies in the word itself. The word will be understood by the average consumer as the name of a wild animal. The mark has no descriptive or allusive qualities in respect of the goods relied upon. Overall, I find that the opponent's mark possesses a medium level of inherent distinctive character.

60. Evidence has been filed and I am now required to consider whether the opponent has demonstrated that its mark had an enhanced level of distinctive character at the relevant date, that being 5 March 2024 (the filing date of the applicant's mark). I have already assessed the evidence above and found that it demonstrates genuine use of the opponent's mark in the five years preceding the relevant date. However, the burden for establishing enhanced distinctive character is a much heavier one; it requires a level of knowledge of the mark amongst average consumers leading to the mark having a greater capacity to identify the goods as coming from a particular undertaking, not simply that there has been an attempt to create or maintain a market for goods under the mark. Considering the small-scale use shown in the evidence and the limitations discussed at paragraphs 19 and 20, it is my view that the evidence does not establish that the distinctive character of the opponent's mark had been enhanced above its inherent characteristics at the relevant date.

Comparison of trade marks

61. It is clear from *Sabel* that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in *Bimbo* that:

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

62. Therefore, it would be wrong to dissect the trade marks artificially, though it is necessary to take into account the distinctive and dominant components of the marks; due weight must be given to any other features which are not negligible and hence contribute to the overall impressions created by the marks.

63. The marks to be compared are as follows:

The applicant's mark	The opponent's mark
	BISON

Overall impressions

64. The applicant's mark is figurative and comprises the words 'BISON DENIM', in a very basic typeface, underneath a stylised bison device. In my view, the overall impression of the mark is dominated by the word 'BISON'. This is due to (i) the eye being naturally drawn to elements of marks that can be read,[17] (ii) the bison device reinforcing the verbal elements, (iii) the word 'DENIM' being a descriptive/allusive reference to the goods, and (iv) the word 'BISON' being the first verbal element. The

[17] *Wassen International Ltd v OHIM*, Case T-312/03

bison device and the word ‘DENIM’ still contribute but play lesser roles in the overall impression. The typeface used, if noticed at all, plays a minimal role.

65. The opponent’s mark is in word-only format and comprises the word ‘BISON’. As this is the only element of the mark, the overall impression is dominated by the word itself.

Visual comparison

66. Visually, the competing marks are similar in that they share the word ‘BISON’. This is the only element of the opponent’s mark and the most dominant element of the applicant’s mark. It is also the first verbal element, and the beginnings of marks tend to have more impact.[18] The marks are visually different insofar as the applicant’s mark contains additional elements, namely the word ‘DENIM’ and the bison device. Bearing in mind my assessment of the overall impressions, I find that there is a medium degree of visual similarity between the competing marks.

Aural comparison

67. The words in the competing marks will be pronounced in the ordinary way. Consumers will make no attempt to articulate the device in the opponent’s mark. The competing marks are aurally similar in that the entirety of the opponent’s mark appears at the beginning of the applicant’s mark. They differ to the extent that the applicant’s mark contains an additional word. Having regard to my assessment of the overall impressions, and what I have said above regarding the beginnings of marks, I find that there is between a medium and high degree of aural similarity between the competing marks.

Conceptual comparison

68. The word ‘BISON’ in both marks will be immediately recognised as a type of wild animal. The device in the applicant’s mark, being a stylised representation of this

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

animal, offers no additional concept; it simply reinforces the meaning conveyed by the word. The word 'DENIM' in the applicant's mark will be understood as a kind of material and will be perceived as a descriptive or allusive reference to the goods. The competing marks are conceptually similar as they overlap in their most (or only) dominant and distinctive element. The meaning associated with the word 'DENIM' is absent from the opponent's mark. However, taking into account my assessment of the overall impressions, I find that there is between a medium and high level of conceptual similarity between the competing marks.

Likelihood of confusion

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

70. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other, while indirect confusion is where the average consumer realises the marks are not the same but puts the similarity that exists between the marks and the goods down to the responsible undertakings being the same or related. As explained by Mr Iain Purvis QC, sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc*, BL O/375/10:

> "16. Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the

later mark is different from the earlier mark. It therefore requires a mental process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: "The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark.

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

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

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

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

71. These three categories are not exhaustive. Rather, they were intended to be illustrative of the general approach.[19] I recognise that there must be a proper basis for finding indirect confusion.[20] I also acknowledge that such a finding should not be made

[19] As was confirmed by the Court of Appeal in *Liverpool Gin Distillery and others v Sazerac Brands, LLC and others* [2021] EWCA Civ 1207, paragraph 12.
[20] See the Court of Appeal's comments in *Liverpool Gin Distillery*, paragraph 13.

merely because the competing marks share a common element. It is not sufficient that a mark merely calls to mind another mark.[21]

72. Earlier in this decision, I concluded as follows:

- The parties' goods are identical or similar to at least a low degree;

- The average consumer is a member of the general public, who will demonstrate a medium level of attention during the purchasing process;

- The purchasing process is likely to be predominantly visual in nature, though aural considerations have not been excluded;

- The opponent's mark has a medium level of inherent distinctive character;

- The word 'BISON' dominates the overall impression of the applicant's mark, whilst the bison device, the word 'DENIM' and the typeface play lesser roles (to varying degrees);

- The overall impression of the opponent's mark is dominated by the word 'BISON';

- The competing marks are visually similar to a medium degree, and aurally and conceptually similar to between a medium and high degree.

73. I acknowledge that there are differences between the competing marks, namely the word 'DENIM' and the bison device. Nevertheless, considering the levels of overall similarity between the competing marks, it is my view that these differences may not be sufficient to distinguish them from one another. The marks share the identical word 'BISON', which is the only element of the opponent's mark and is most dominant in the overall impression of the applicant's mark. Whilst I accept that the bison device also contributes to the overall impression of the applicant's mark, it simply reinforces

[21] *Duebros Limited v Heirler Cenovis GmbH,* BL O/547/17

the meaning of the common word. Further, the word ‘DENIM’ is descriptive/allusive of the goods for which there is some similarity. Taking into account the principles of imperfect recollection and interdependency, I am of the view that the average consumer, paying no more than a medium level of attention, may not recall the respective marks with sufficient accuracy to differentiate between them. To my mind, the average consumer may misremember whether the word ‘BISON’ is accompanied by decorative imagery associated with this animal and a descriptive/allusive reference to the goods. I consider it far more likely that the average consumer will retain and recall the common, distinctive word ‘BISON’. Consequently, I find that there is a likelihood of direct confusion, even in relation to goods which are similar to a low degree.

74. If that is not correct, and the additional elements in the applicant’s mark are accurately recalled by the average consumer, they will still recognise the identical word ‘BISON’. This is the only element of the opponent’s mark and is the most dominant and distinctive element of the applicant’s mark. As stated above, the additional word ‘DENIM’ is likely to be perceived as a descriptive/allusive reference to the goods for which there is some similarity. Therefore, the addition or removal of this word readily lends itself to a sub-brand or brand extension used by the same (or an economically connected) undertaking, i.e. the applicant’s mark is likely to be seen as an alternate brand of the opponent’s mark which indicates that goods sold under the mark are made from denim. Moreover, the inclusion of the device in the applicant’s mark is likely to be perceived as a variation of the ‘BISON’ brand with an additional decorative element which reinforces the meaning of the brand. In light of all this, I am satisfied that the average consumer, paying no more than a medium level of attention, is likely to assume a commercial association between the parties due to the presence of the shared word ‘BISON’. Accordingly, I find that there is a likelihood of indirect confusion.

Conclusion

75. The opposition under section 5(2)(b) of the Act has been partially successful. Subject to any appeal against this decision, the application will be refused in respect of the following goods:

Class 18: Bags.

Class 25: Clothing; underwear; trousers; sports jerseys; coats; shoes; gloves [clothing]; hats; hosiery; overcoats.

76. The application will proceed to registration in the UK in relation to the following goods, against which the opposition has failed:

Class 14: Precious stones; pearls; jewellery; jewellery boxes of precious metal; metal works of art [precious metal]; gold, unworked or semi-worked; semi-precious stones; diamonds; wristwatches; wristlet watches.

Class 18: Rucksacks; pocket wallets; travelling bags; school bags; leather, unworked or semi-worked; imitation leather; animal skins; trunks [luggage]; umbrellas.

Costs

77. Both parties have succeeded in part. However, the applicant has enjoyed the greater measure of success. As such, it is entitled to a contribution towards its costs. Taking into account the guidance in Tribunal Practice Notice 1/2023, and making an appropriate reduction to reflect the opponent's degree of success, I award the applicant the sum of **£360**. This is calculated as follows:

Considering the opponent's statement and preparing a counterstatement:	£300
Considering the opponent's evidence: [22]	£300

[22] Whilst the award for this activity falls below the scale minimum, this part of the scale covers 'preparing evidence and considering and commenting on the other side's evidence'. Although the applicant is likely to have incurred costs associated with considering the opponent's evidence, it neither commented on it nor filed evidence of its own.

Subtotal:	£600
Reduction of 40%:	*-£240*
Total:	£360

78. I order PWT A/S to pay GUANGZHOU BISON GARMENT CO., LTD. the sum of **£360**. This sum is to be paid within 21 days of the expiry of the appeal period, or within 21 days of the final determination of the proceedings if any appeal against this decision is unsuccessful.

Dated this 12th day of November 2025

James Hopkins
For the Registrar