

O/0241/26

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NO. 4061987
BY TALENT 27 LTD
TO REGISTER THE FOLLOWING TRADE MARK:**



IN CLASSES 35 AND 41

AND

**IN THE MATTER OF THE OPPOSITION THERETO
UNDER NO. 450130
BY 27 TALENT LTD**

BACKGROUND AND PLEADINGS

1. On 11 June 2024, Talent 27 Ltd (“the applicant”) applied to register the trade mark shown on the cover page of this decision (“the contested mark”) in the UK. The application was published for opposition purposes on 23 August 2024, and registration is sought for services in classes 35 and 41.¹

2. On 7 October 2024, the application was opposed in full by 27 Talent Ltd (“the opponent”), on the basis of section 5(2)(b) of the Trade Marks Act 1994 (“the Act”).² The opponent relies upon its United Kingdom trade mark (UKTM) no. 3957630, for the trade mark ‘27 Talent’, which was applied for on 18 September 2023 and became registered on 15 December 2023. The opponent relies upon all of its class 35 services, for which the mark is registered.³

3. The opponent claims that the marks are visually and phonetically similar on the basis that they include identical wording and numbers, and that the services in class 35 are identical, resulting in a likelihood of confusion on the part of the public.

4. The applicant filed a counterstatement denying the ground of opposition.

5. The opponent’s mark qualifies as an earlier mark under section 6(1) of the Act. As it had not completed its registration procedure more than five years before the application date for the contested mark, it is not subject to the use provisions contained in section 6A of the Act.

6. Both parties filed evidence. The opponent filed evidence in reply. Neither party requested a hearing nor filed written submissions in lieu of a hearing. This decision is taken following careful consideration of the papers.

¹ See services comparison at paragraph [34].

² 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. See also Tribunal Practice Notice (“TPN”) 2/2020 End of Transition Period – impact on tribunal proceedings.

³ See services comparison at paragraph [34].

7. Neither party are professionally represented.

EVIDENCE

8. The opponent filed evidence in support of the opposition in the form of the witness statement of Brooke Cooper, dated 17 April 2025, which is accompanied by five exhibits (Exhibits A to E). Ms Cooper is the owner and director of the opponent, a position held since 2020. The evidence provides information regarding the nature of the opponent's business

9. The applicant filed evidence in support of the application in the form of the witness statement of Emma Walsh, dated 19 May 2025, which is accompanied by one exhibit (Exhibit A). Ms Walsh is duly authorised by the applicant to make her statement. Ms Walsh gives evidence about the nature of the applicant's business and the fact that the applied-for-mark has been used in the UK since 2020. I will return to the relevance of this evidence below.

10. The opponent filed evidence in reply, in the form of her second witness statement, dated 6 August 2025, which is accompanied by two exhibits (Exhibits AB1 to AB2).

11. I have taken the parties' evidence into account in reaching my decision and I will refer to it to the extent I consider necessary.

PRELIMINARY ISSUES

12. Several points have been raised by the applicant in her counterstatement. Before going any further into the merits of this opposition it is necessary to explain why, as a matter of law, these points will have no bearing on the outcome of this opposition.

13. The applicant points to the differing target markets of the respective parties and their respective services, submitting that:

“We use the Talent 27 business and branding to recruit for our own group of companies. The opponent would never be engaged to provide the same or

similar service to the group. We do not have one client of applicant in common, we are entirely different calibres. It is like comparing a home brew to coca cola.”

14. For the avoidance of doubt, I must carry out a notional assessment based upon the parties’ respective marks and the services contained in their specifications. The actual target market and the activities they carry out are not relevant to my assessment.⁴

15. Further, marketing strategies, including the targeting of specific consumers, are temporary and may change over time. As such, it is not appropriate to take that factor into account in my assessment. I will make an assessment, later in this decision, as to who the average consumer could be for the services at issue. However, as previously stated, this is a notional assessment based on how the terms are worded.

16. Additionally, the applicant claims that her mark has been in use since late 2020 and has a strong reputation with over 100 members. For the avoidance of doubt, the fact that the applicant claims to have used its mark since late 2020, therefore prior to the opponent’s mark being applied for and registered, is not a defence in law to the opposition. Tribunal Practice Notice 4/2009 explains this as follows:

“The position with regard to defences based on use of the trade mark under attack which precedes the date of use or registration of the attacker’s mark.

4. The viability of such a defence was considered by Ms Anna Carboni, sitting as the appointed person in *Ion Associates Ltd v Philip Stainton and Another*, BL O-211-09. Ms Carboni rejected the defence as being wrong in law.

5. Users of the Intellectual Property Office are therefore reminded that defences to section 5(1) or (2) grounds based on the Applicant for registration/registered proprietor owning another mark which is earlier still compared to the attacker’s mark or having used the trade mark before the attacker used or registered its mark are wrong in law. If the owner of the mark

⁴ *O2 Holdings Limited, O2 (UK) Limited v Hutchison 3G UK Limited*, Case C-533/06 at [66]; *Compass Publishing BV v Compass Logistics Ltd* [2004] RPC 41 at [22].

under attack has an earlier mark or right which could be used to oppose or invalidate the trade mark relied upon by the attacker, and the Applicant for registration/registered proprietor wishes to invoke that earlier mark/right, the proper course is to oppose or apply to invalidate the attacker's mark."

17. Accordingly, Section 72 of the Act provides that registration shall be taken as prima facie evidence of the validity of a registered trade mark. The opponent's trade mark must be regarded as validly registered and, in these circumstances, the law requires that priority be determined according to the filing date of the application for registration. This means that the opponent's mark has priority.

18. In addition, with regards to the similarity of the respective marks, the applicant states:

"The branding is clearly visibly different [...]. The Companies House record would not have been provided should it have been deemed similar to another."

19. In this regard, differences between company names and their availability on the Companies House Register are not relevant to my assessment. It is the actual trade mark relied upon by the opponent and the trade mark relied upon by the applicant that I will be comparing later in this decision. As such, it is not appropriate for me to take the state of the Companies House Register into account in my assessment.

20. Additionally in her witness statement,⁵ Ms Walsh states:

"Talent 27 Ltd has traded under the "Talent 27" mark since 2020.

[...]

The visual and conceptual structure of our mark "Talent 27" differs meaningfully from "27 Talent." Section 5(2)(b) requires that a likelihood of confusion exist. The reversal of word order, differing brand presentations, and distinct

⁵ Witness statement, dated 19 May 2025.

commercial identities all contribute to a sufficiently different overall impression, reducing any realistic potential for confusion.

The burden of proof lies with the opponent to establish a likelihood of confusion. The examples they cite in Exhibit D do not rise to this standard. They are anecdotal, lack corroborating evidence, and are minimal in volume relative to the scale of our operations.

[...]

21. With regards to an absence of any evidence of actual confusion, in *The European Limited v The Economist Newspaper Ltd* [1998] FSR 283 Millett L.J. stated that:

"Absence of evidence of actual confusion is rarely significant, especially in a trade mark case where it may be due to differences extraneous to the plaintiff's registered trade mark."

22. Accordingly, this line of argument does not assist the applicant. In addition, Ms Walsh states:⁶

"The opponent has not demonstrated sufficient use or market presence to establish that their mark enjoys the level of recognition necessary to claim a likelihood of confusion under Section 5(2)(b)."

23. In this regard, since the opponent's earlier mark is not subject to proof of use, it is entitled to protection in relation to all the services for which it is registered. It is the trade mark and the services relied upon by the opponent and the applicant's contested trade mark and services that I will be comparing later in this decision. The assessment I must make between the marks and the services at issue is a notional and objective assessment, rather than one based on the parties' current trading practices, and use on the market, etc.

⁶ Witness statement dated 19 May 2025.

DECISION

24. Section 5(2)(b) of the Act readd as follows:

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

(a) [...]

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

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

25. The following standard summary of the principles applicable to the assessment of the likelihood of confusion was approved by the Supreme Court in *Iconix Luxembourg Holdings SARL v Dream Pairs Europe Inc & Anor* [2025] UKSC 25:

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. The average consumer is deemed to be reasonably well informed and reasonably circumspect and observant, but someone who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them they have kept in their 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 greater 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; and
- 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 services

26. In *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, the Court of Justice of the European Union (“CJEU”) stated that:

“23. 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”.

27. In *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T-133/05, the General Court (“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 für 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.”

28. Additionally, the factors for assessing similarity between goods and services identified in *British Sugar Plc v James Robertson & Sons Limited* (“*Treat*”) [1996] R.P.C. 281 include an assessment of the users and the channels of trade of the respective goods or services.

29. 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 GC stated that “complementary” means:

“82. ...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”.

30. For the purposes of considering the issue of similarity of goods and services, it is permissible to consider groups of terms collectively where appropriate: *Separode Trade Mark*, BL O-399-10.⁷

31. In the case of goods and services, the terms used should not be interpreted widely but confined to the core of the possible meanings attributable to the terms: *SkyKick UK Ltd & Anor v Sky Ltd & Ors (Rev1) [2024] UKSC 36*, at [365].

32. Pursuant to section 60A of the Act, I am mindful of the fact that the services are not to be automatically regarded as being similar to each other on the ground that they appear in the same class, nor automatically regarded as dissimilar from each other on the ground that they appear in different classes.

33. I also note that in *Unicorn Studio Inc v Veronese* Case CH-2023-000214, Iain Purvis, KC, sitting as deputy High Court judge, stated that any finding of similarity (between goods and services) requires the exercise of common sense.

34. The competing services are as follows:

Applicant's services

Class 35

Employment recruitment; Personnel recruitment; Recruitment (Personnel -); Recruitment of personnel; Recruitment advertising; Staff recruitment; Recruitment services; Personnel recruitment advertising; Consultancy of personnel recruitment; Personnel recruitment consultancy; Personnel placement and recruitment; Recruitment and placement services; Recruitment of political volunteers; Interviewing services [for personnel recruitment]; Personnel recruitment services; Executive recruitment services; Recruitment consultancy services; Recruitment of temporary personnel; Staff recruitment services; Employment recruiting consultancy; Recruitment consultancy for lawyers; Consultancy relating to personnel recruitment; Permanent staff recruitment; Business recruitment consultancy; Employment

⁷ Paragraph 5.

recruiting consultation; Recruitment of flight personnel; Recruitment of airline personnel; Recruitment of executive staff; Staff recruitment consultancy services; Model recruitment agencies; Recruitment of political operatives; Personnel recruitment agency services; Recruitment and personnel management services; Professional recruitment services; Personnel recruitment services and employment agencies; Employment recruiting services; Recruitment of high-level management personnel; Recruitment consultancy for legal secretaries; Recruitment services for sales and marketing personnel; Recruitment of computer staff; Advertising services relating to the recruitment of personnel; Recruitment of temporary technical personnel; Assistance relating to recruitment and placement of staff; Advisory services relating to personnel recruitment; Recruitment consultants in the financial services field; Consultancy and advisory services relating to personnel recruitment; Arranging and conducting recruitment fairs; Dissemination of information relating to the recruitment of graduates; Executive recruiting services; Human resources management and recruitment services; Office support staff recruitment services; Personality testing for recruitment purposes; Management advice relating to the recruitment of staff; Provision of advice relating to the recruitment of graduates; Recruitment [casting] of actors; Providing information relating to employment recruitment; Recruitment of airport ground staff; Provision of information relating to recruitment; Providing information relating to personnel recruitment; Casting [recruitment] of performing artists; Recruiting of office support staff; Personnel management and employment consultancy; Employment staffing consultation services; Personnel placement consultancy; Headhunting services; Employment consultancy; Job placement consultancy; Job agency services for para-medical personnel; Job and personnel placement; Consultancy relating to the selection of personnel; Employment counselling and consultancy services; Organisation, operation and supervision of sales and promotional incentive schemes; Consultancy relating to the organisation of promotional campaigns for business; Development of promotional campaigns; Clerical employment agency services; Employment placement services for butlers; Employment consultancy services; Employment counselling; Employment agency services relating to placement of medical and nursing personnel; Employment outplacement services; Employment agency services for personnel in general office positions; Employment agency services relating to nurses; Hiring of advertising materials; Organization, operation and supervision of sales and promotional incentive

schemes; Consultancy and advisory services relating to personnel placement; Consultancy relating to advertising and promotion services; Employment counselling services; Employment agency services; Employment consultancy services relating to data processing personnel; Providing recruitment information via a global computer network; Employment placement services for housekeepers; Employment agency services relating to bilingual staff; Temporary personnel employment services; Psychometric testing for the selection of personnel; Secretarial employment agency services; Advertising, marketing and promotional consultancy, advisory and assistance services; Consultancy relating to management selection; Job agency services for medical personnel; Selection of executive personnel; Personnel consultancy; Employment placement services for personal assistants; Internship placement services; Marketing, advertising and promotion services; Advertising, marketing and promotion services; Executive search and placement services; Personnel management of marketing personnel; Sponsorship search consultancy services; Management consultancy (Personnel -); Personnel management consultancy; Executive search and selection services; Hiring of publicity materials; Personnel placement services; Consultancy regarding advertising communications strategy; Modelling agency services for sales promotion purposes; Employment agencies; Publicity personnel management services; Personnel management consultancy services; Business consultancy services relating to the promotion of fund raising campaigns; Employee relocation services; Relocation services (Employee -); Business organisation and management consultancy in the field of personnel management; Publicity and sales promotion services; Consultancy regarding advertising communication strategies.

Class 41

Employment training; Sales personnel training services; Training relating to employment skills; Management training consultancy services; Consultancy services relating to the training of employees; Training consultancy; Education and training consultancy.

Opponent's services

Class 35

Employment recruitment; Recruitment (Personnel -); Recruitment of personnel; Personnel recruitment; Recruitment advertising; Staff recruitment; Recruitment services; Personnel recruitment advertising; Personnel recruitment consultancy; Consultancy of personnel recruitment; Personnel placement and recruitment; Recruitment and placement services; Interviewing services [for personnel recruitment]; Personnel recruitment services; Executive recruitment services; Recruitment consultancy services; Recruitment of temporary personnel; Staff recruitment services; Employment recruiting consultancy; Consultancy relating to personnel recruitment; Permanent staff recruitment; Business recruitment consultancy; Employment recruiting consultation; Recruitment of executive staff; Staff recruitment consultancy services; Personnel recruitment agency services; Recruitment and personnel management services; Professional recruitment services; Personnel recruitment services and employment agencies; Employment recruiting services; Recruitment of high-level management personnel; Recruitment services for sales and marketing personnel; Advertising services relating to the recruitment of personnel; Assistance relating to recruitment and placement of staff; Advisory services relating to personnel recruitment; Consultancy and advisory services relating to personnel recruitment; Arranging and conducting recruitment fairs; Executive recruiting services; Human resources management and recruitment services; Office support staff recruitment services; Personality testing for recruitment purposes; Management advice relating to the recruitment of staff; Provision of advice relating to the recruitment of graduates; Providing information relating to employment recruitment; Provision of information relating to recruitment; Providing information relating to personnel recruitment; Recruiting of office support staff; Personnel management and employment consultancy; Employment staffing consultation services; Personnel placement consultancy; Headhunting services; Employment consultancy; Job placement consultancy; Job and personnel placement; Consultancy relating to the selection of personnel; Employment counselling and consultancy services; Organisation, operation and supervision of sales and promotional incentive schemes; Employment consultancy services; Employment agency services for personnel in general office positions; Organization, operation and supervision of sales and promotional incentive schemes; Consultancy and advisory services relating to personnel placement; Consultancy relating to advertising and promotion services; Employment agency services; Employment agency services relating to bilingual staff;

Psychometric testing for the selection of personnel; Consultancy relating to management selection; Selection of executive personnel; Personnel consultancy; Marketing, advertising and promotion services; Advertising, marketing and promotion services; Executive search and placement services; Personnel management of marketing personnel; Management consultancy (Personnel -); Personnel management consultancy; Executive search and selection services; Personnel placement services; Consultancy regarding advertising communications strategy; Employment agencies; Personnel management consultancy services; Business organisation and management consultancy in the field of personnel management; Publicity and sales promotion services; Consultancy regarding advertising communication strategies.

Class 35

Employment recruitment; Personnel recruitment; Recruitment (Personnel -); Recruitment of personnel; Recruitment advertising; Staff recruitment; Recruitment services; Personnel recruitment advertising; Consultancy of personnel recruitment; Personnel recruitment consultancy; Personnel placement and recruitment; Recruitment and placement services; Interviewing services [for personnel recruitment]; Personnel recruitment services; Executive recruitment services; Recruitment consultancy services; Recruitment of temporary personnel; Staff recruitment services; Employment recruiting consultancy; Consultancy relating to personnel recruitment; Permanent staff recruitment; Business recruitment consultancy; Employment recruiting consultation; Recruitment of executive staff; Staff recruitment consultancy services; Personnel recruitment agency services; Recruitment and personnel management services; Professional recruitment services; Personnel recruitment services and employment agencies; Employment recruiting services; Recruitment of high-level management personnel; Recruitment services for sales and marketing personnel; Advertising services relating to the recruitment of personnel; Assistance relating to recruitment and placement of staff; Advisory services relating to personnel recruitment; Consultancy and advisory services relating to personnel recruitment; Arranging and conducting recruitment fairs; Executive recruiting services; Human resources management and recruitment services; Office support staff recruitment services; Personality testing for recruitment purposes; Management advice relating to the recruitment of staff; Provision of advice relating to

the recruitment of graduates; Providing information relating to employment recruitment; Provision of information relating to recruitment; Providing information relating to personnel recruitment; Recruiting of office support staff; Personnel management and employment consultancy; Employment staffing consultation services; Personnel placement consultancy; Headhunting services; Employment consultancy; Job placement consultancy; Job and personnel placement; Consultancy relating to the selection of personnel; Employment counselling and consultancy services; Organisation, operation and supervision of sales and promotional incentive schemes; Employment consultancy services; Employment agency services for personnel in general office positions; Organization, operation and supervision of sales and promotional incentive schemes; Consultancy and advisory services relating to personnel placement; Consultancy relating to advertising and promotion services; Employment counselling services; Employment counselling; Employment agency services; Employment agency services relating to bilingual staff; Psychometric testing for the selection of personnel; Consultancy relating to management selection; Selection of executive personnel; Personnel consultancy; Marketing, advertising and promotion services; Advertising, marketing and promotion services; Executive search and placement services; Personnel management of marketing personnel; Management consultancy (Personnel -); Personnel management consultancy; Executive search and selection services; Personnel placement services; Consultancy regarding advertising communications strategy; Employment agencies; Personnel management consultancy services; Business organisation and management consultancy in the field of personnel management; Publicity and sales promotion services; Consultancy regarding advertising communication strategies

35. The above services are identical to services in the opponent's specification, due to their identical or near-identical wording.

Recruitment of political volunteers; Recruitment of flight personnel; Recruitment of airline personnel; Recruitment of political operatives; Recruitment of computer staff; Recruitment of temporary technical personnel; Recruitment [casting] of actors; Recruitment of airport ground staff; Casting [recruitment] of performing artists

36. The above contested services all fall within the broader term *recruitment services* contained in the specification of the earlier mark. The services are therefore identical on the principle outlined in *Meric*.

Recruitment consultancy for lawyers; Recruitment consultancy for legal secretaries; Recruitment consultants in the financial services field

37. The above contested services all fall within the broader term *recruitment consultancy services* contained in the specification of the earlier mark. The services are therefore identical on the principle outlined in *Meric*.

Model recruitment agencies; Job agency services for para-medical personnel; Clerical employment agency services; Employment agency services relating to placement of medical and nursing personnel; Employment agency services relating to nurses; Secretarial employment agency services; Job agency services for medical personnel

38. The above contested services are all included in the opponent's wider terms *personnel recruitment agency services* and *employment agency services* contained in the specification of the earlier mark. The services are therefore identical on the principle outlined in *Meric*.

Employment placement services for butlers; Employment placement services for housekeepers; Employment placement services for personal assistants; Internship placement services

39. The above contested services all fall within the broader term *recruitment and placement services* contained in the specification of the earlier mark. The services are therefore identical on the principle outlined in *Meric*.

Consultancy relating to the organisation of promotional campaigns for business; Development of promotional campaigns

40. The above contested services fall within the broader term *consultancy relating to advertising and promotion services* contained in the specification of the earlier mark. The services are therefore identical on the principle outlined in *Meric*.

Employment consultancy services relating to data processing personnel

41. The above contested services fall within the broader term *employment consultancy services* contained in the specification of the earlier mark. The services are therefore identical on the principle outlined in *Meric*.

Temporary personnel employment services

42. Although worded slightly differently the above contested services are directly equivalent to the opponent's *recruitment of temporary personnel*. Therefore, the services are identical.

Providing recruitment information via a global computer network

43. The above contested services fall within the broader term *provision of information relating to recruitment* contained in the specification of the earlier mark. The services are therefore identical on the principle outlined in *Meric*.

Hiring of advertising materials; Hiring of publicity materials

44. Broadly speaking, advertising/publicity materials are physical or digital items, such as digital signage, billboards, inflatables, display units, flyers and blimps, etc., that can be used for, inter alia, advertising goods, services and brands. The hiring of advertising materials can offer greater flexibility, lower upfront costs and with regards to the hiring of billboards and blimps, for example, can allow temporary and cost-effective access to premium locations. Accordingly, as the contested services are a form of advertising and promotion, I find that they are encompassed by the opponent's broad term *advertising, marketing and promotion services*. These services are therefore considered identical according to the principle set out in *Meric*. However, if I am wrong in my analysis, then I find that the respective services are similar to a high degree, on

the basis that the primary purpose of the services is to provide advertisements/publicity, they are complementary services aimed at the same users, and the channels of trade will coincide.

Advertising, marketing and promotional consultancy, advisory and assistance services

45. I am of the view that the contested services fall within the opponent's broad term *advertising, marketing and promotion services* along with the opponent's *consultancy relating to advertising and promotion services* and *consultancy regarding advertising communications strategy*. These services are therefore considered identical according to the principle set out in *Meric*. However, if I have been too generous in my analysis then I am of the view that the contested services are similar to the opponent's stated services to a high degree on the basis that they are complementary in nature, will target the same users and will likely overlap in purpose. Furthermore, the services may be offered by the same providers, through the same or similar channels.

Modelling agency services for sales promotion purposes

46. In my opinion the contested services fall within the opponent's broad term *publicity and sales promotion services*. These services are therefore considered identical according to the principle set out in *Meric*. However, if I am wrong in my analysis, then I find that the respective services are similar to a high degree, on the basis that the primary purpose of the respective services is sales promotion. Accordingly, the services are considered complementary, will likely be aimed at the same user, and the channels of trade will coincide.

Publicity personnel management services

47. Broadly speaking, the above contested services involve, inter alia, activities aimed at building and maintaining a positive reputation for businesses, etc. As such, whilst the contested services are not strictly identical to the opponent's *publicity [...] services* and *personnel management services*, I find that they are highly similar on the basis that they will target the same users, will likely overlap in purpose, may be offered by the same providers, and the channels of trade may coincide.

Business consultancy services relating to the promotion of fund raising campaigns

48. I find that the above contested services fall within the opponent's broad term *consultancy relating to advertising and promotion services*. The services are therefore identical on the principle outlined in *Meric*.

Dissemination of information relating to the recruitment of graduates

49. In general, the dissemination of information is a form of advertising involving the process of distributing information relating to recruitment, for example, to a targeted audience or the public at large. This can be carried out in a number of ways, such as, via digital and online channels, industry magazines, flyers and posters, etc. Accordingly, I am of the view that the contested services fall within the opponent's broad term *recruitment advertising*. These services are therefore considered identical according to the principle set out in *Meric*. However, if I have been too generous in my analysis then I am of the view that the services are similar to a high degree on the basis that they target the same users, overlap in purpose, and will likely be offered by the same providers through the same channels of trade.

Employment outplacement services

50. Broadly speaking, the contested services assist employees in transitioning out of a business/organisation due to, for example, redundancy, restructuring, or layoffs, etc. I am of the view that these services fall within the opponent's broad term *recruitment and placement services* on the basis that these services will also likely be provided to employees exiting a business/organisation through redundancy or restructuring, etc. Accordingly, I find that these services are identical according to the principle set out in *Meric*. However, if I am wrong, I consider the services to be similar to a high degree on the basis that they will likely target the same users, will have a similar purpose, and can be offered by the same providers through the same channels of trade.

Employee relocation services; Relocation services (Employee -)

51. In general, the contested services assist employees who have to move homes for work, by easing the transition for employees and their families, by, for example, providing visa assistance for international moves, arranging temporary accommodation, school searches, arranging transportation and packing, etc. As such, I find that these services fall within the opponent's broad term *recruitment and placement services* on the basis that recruitment/placement services can also facilitate the relocation of an employee, especially in regard to an international hiring, or in regard to the recruitment of employees for specialised industries where a specific skill set is required. Accordingly, I find that these services are identical according to the principle set out in *Merit*. However, if I have been too generous in my analysis, I consider the services to be similar to a high degree on the basis that they target the same users, have a similar purpose, and can be offered by the same providers through the same channels of trade.

Sponsorship search consultancy services

52. Broadly speaking, the contested services help employers find, vet, and hire international workers who require visas, while assisting job seekers in finding employers willing to sponsor their work authorisation particularly in sectors with acute shortages such as healthcare, IT and engineering, for example. I am of the view that the contested services share a degree of similarity with the opponent's broad term *recruitment consultancy services*, as both act as intermediaries between employers and candidates to facilitate hiring, with the aim of, for example, matching qualified candidates with employers seeking specific skills, etc. However, I acknowledge that sponsorship search consultancy is likely to be a more specialised, compliance-driven subset of recruitment, often requiring expertise in immigration laws, for example. Accordingly, whilst the contested *sponsorship search consultancy services* are not strictly encompassed by the opponent's *recruitment consultancy services*, I find that their purpose, users and channels of trade can overlap. Therefore, I consider that the services are similar to between a medium to high degree.

Class 41

Employment training; Training relating to employment skills

53. Broadly speaking, the contested services involve, inter alia, the training of individuals, in order to equip them with the required skills and qualifications to secure a job and/or to carry out a specific role effectively. Such training can also focus upon CV writing, completion of application forms and interview techniques, etc. Whilst I note that these services are not present in the opponent's specification, I find that they share a degree of similarity with the opponent's *employment agency services*. Generally speaking, employment agency services can also provide or facilitate, inter alia, training to bridge skill gaps for roles, including CV writing, interview techniques, or industry-specific training and certifications, etc. Accordingly, I find that overall purpose, users and channels of trade of the contested services may overlap with the opponent's *employment agency services*. Therefore, I consider that the services are similar to between a low to medium degree.

Sales personnel training services

54. In general, the contested services aim to equip sales personnel or those candidates wishing to secure a job in sales, with the specific skills, knowledge and tools required. Whilst I note that these services are not present in the opponent's specification I am of the view that they share a degree of similarity with the opponent's *recruitment services for sales and marketing personnel* in Class 35. I say this on the basis that some recruitment services, particularly specialist and temporary staffing agencies, also offer personnel training services as part of their recruitment services. These services can often include pre-employment training, sector-specific (sales) skill workshops, CV advice, interview coaching, and workshops to help candidates prepare for a role in sales, etc. Accordingly, I find that the purpose, users and channels of trade of the contested services can overlap with the opponent's *recruitment services for sales and marketing personnel*. Overall, I consider the services to be similar to between a low to medium degree.

Management training consultancy services

55. Generally speaking, the contested services provide consulting and targeted management training, such as workshops, coaching and bespoke management courses, etc., aimed at improving/developing management skills and bridging skills gaps, etc. Whilst these services are not present in the opponent's specification I am of the view that they share a degree of similarity with the opponent's *consultancy relating to management selection*, on the basis that such services can involve or will be closely linked to management training. Whilst the primary focus of the opponent's management selection services is to identify the right talent, etc., this can feasibly expand into management training in order to develop the required management skills, etc. Accordingly, their purpose, users and channels of trade can overlap. As such, I consider that the contested services and the opponent's *consultancy relating to management selection* are similar to between a low to medium degree.

Consultancy services relating to the training of employees; Training consultancy; Education and training consultancy

56. In general, the contested services involve designing and implementing training and educational strategies for organisations, employees and individuals, etc. The consultants will, amongst other things, assess training needs and offer professional development to bridge skill gaps and identify training and educational needs, etc. Additionally, the services will likely also involve designing the appropriate training strategy, etc. I am of the view that these training and educational services can also be aimed at individuals who are trying to re-enter the workforce or change careers, by addressing skill gaps, training and educational needs and by providing career guidance, etc. Whilst I note that the contested services are not present in the opponent's specification, I find that they share a degree of similarity with the opponent's *employment counselling and consultancy services* on the basis that these services will involve, inter alia, the provision of a range of supports designed to assist individuals in developing their skills, provide career guidance and job search support, as well as offering training and educational advice aimed at bridging the gap between learning and employment, etc. Accordingly, purpose, users and channels of trade of the services at issue may overlap. As such, I consider that the contested services and

the opponent's *employment counselling and consultancy services* are similar to a low degree.

The average consumer and the nature of the purchasing act

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

58. In *Iconix Luxembourg Holdings SARL v Dream Paris Europe Inc & Anor*, [2025] UKSC 25, the Supreme Court approved the comments of Arnold LJ in *Lidl Great Britain Ltd & Anor v Tesco Stores Ltd & Anor (Rev1)* [2024] EWCA Civ 262, where he pointed out that:

(a) Consumers who are ill-informed or careless, or consumers with specialised knowledge or who are excessively careful are excluded from consideration;

(b) The average consumer provides a standard which enables the courts to strike a balance between the competing interests involved, such as trade mark owners, their competitors and consumers;

(c) The average consumer is neither a single hypothetical person nor a mathematical average; assessment from the perspective of the average consumer does not involve a statistical test. There is no single meaning rule and if, having regard to the perceptions and expectations of the average consumer, the court considers that a significant proportion of the relevant public is likely to be confused, a finding of infringement may properly be made;

(d) Assessment from the perspective of the average consumer is intended to facilitate adjudication of trade mark disputes by providing an objective criterion, by promoting consistency of assessment and by and enabling courts and

tribunals to determine such issues so far as possible without the need for evidence;

(e) The average consumer's level of attention varies according to the category of goods or services in question; and

(f) the average consumer rarely has the opportunity to make direct comparisons between trade marks (or between trade marks and signs) and must instead rely upon the imperfect picture of the trade mark they have kept in their mind.

59. The average consumer for the services at issue will either be a member of the general public (e.g., those individuals seeking employment and/or training, etc.) or a professional user. Given the range of services, the cost of the purchases are likely to vary, as will their frequency. The average consumer is likely to consider various factors when selecting the services, such as suitability, reputation of the service provider, and price, etc. Consequently, I consider that at least a medium degree of attention will be paid during the purchasing process, although, in my view, not the highest.

60. The services will likely be selected following perusal of websites and advertisements. In all cases, the visual aspect of the mark will play a significant role during the purchasing process as consumers will see it on advertising and promotional materials. Consequently, visual considerations are likely to dominate the selection process. However, I do not discount that aural considerations will also play a part given that advice may be sought from recruitment consultants, for example, and recommendations may be made by word-of-mouth.


Comparison of the marks

61. It is clear from *Sabel BV v. Puma AG* that the average consumer normally perceives a trade 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 trade marks must be assessed by reference to the overall impressions created by them, bearing in mind their distinctive and dominant components. The CJEU stated in *Bimbo SA v OHIM*, that:

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

63. The trade marks to be compared are as follows:

The opponent's mark	The applicant's mark
27 Talent	

64. With regards to the similarity of the marks, in her statement of grounds, the opponent states that the marks are visually and phonetically similar in that they include identical wording and numbers.

65. In response, in her counterstatement the applicant states that the word 'talent' is a commonly used term in the recruitment field and that overall, the branding of both marks is clearly visibly different.

66. In addition, the applicant states that:⁸

⁸ Witness statement of Emma Walsh, dated 19 May 2025.

“The visual and conceptual structure of our mark ‘Talent 27’ differs meaningfully from ‘27 Talent’. Section 5(2)(b) requires that a likelihood of confusion exists. The reversal of word order, differing brand presentations, and distinct commercial identities all contribute to a sufficiently different overall impression, reducing any realistic potential for confusion.”

Overall impression

67. The opponent’s mark comprises the number ‘27’ followed by the word ‘Talent’. There are no other elements to contribute to the overall impression of the mark. For reasons that I will come to discuss in the conceptual comparison, I find that the number ‘27’ plays an independent distinctive role within the mark, and as such plays a greater role in the overall impression. The word ‘Talent’, whilst not negligible, plays a lesser role in the overall impression.

68. The applicant’s stylised mark also comprises the number ‘27’ and the word ‘TALeNT’. The number ‘27’ is presented in a very large font. Positioned in the centre of the number is the word ‘TALeNT’, which is presented in a much smaller, stylised font. Both elements sit in the centre of an off-white square background.

69. Whilst I note from the applicant’s counterstatement and witness statement that the contested mark is ‘Talent 27’ and not ‘27 Talent’, I am of the view that due to its size, the eye is naturally initially drawn to the ‘27’ element and then to the much smaller word ‘TALeNT’, and therefore the mark is likely to be perceived and pronounced as ‘27 TALENT’. As previously stated, for reasons that I will come to discuss in the conceptual comparison, I find that the number ‘27’ plays an independent distinctive role within the mark, and as such plays a greater role in the overall impression. The word ‘TALeNT’, whilst not negligible, plays a lesser role in the overall impression. With regard to the stylisation in the mark and the square background, I find that these elements will have little impact on the consumer.

Visual comparison

70. Visually, the marks coincide in the number '27' along with the word 'Talent' / 'TALeNT'. I do not consider the distinction in letter case between the earlier mark and the contested mark to be a point of significant difference between them. The square background and stylisation present in the applicant's mark is not replicated in the earlier mark, however, as previously stated, these elements will have little impact on the consumer. Furthermore, as the earlier mark is a word mark (i.e. it is not stylised), it can be used in any font, letter case or colour.⁹ Accordingly, I find the competing marks to be visually similar to a very high degree.

Aural comparison

71. The marks identically coincide in the number '27' and the word 'TALENT'. The background element in the applicant's mark will not be articulated. As previously stated, I am of the view that the respective marks will both be articulated as '27 TALENT', therefore I find the marks to be aurally identical. However, in the event that the applicant's mark is articulated as 'Talent 27', the marks are aurally similar to a very high degree.

Conceptual comparison

72. For a conceptual message to be relevant it must be capable of immediate grasp by the average consumer. This is highlighted in numerous judgments of the GC and the CJEU including *Ruiz Picasso v OHIM* [2006] E.C.R.-I-643; [2006] E.T.M.R 29. The assessment must, therefore, be made from the point of view of the average consumer.

73. In my view the number '27' identically present in both marks will be perceived as just that. Therefore, this element in the marks conveys the same concept. As for the word 'TALENT' present in the respective marks, this will be an immediately recognisable word for the average consumer, namely, as reference to, inter alia, a natural skill or ability to be good at something. Accordingly, in view of the services at

⁹ *Bentley Motors Limited v Bentley 1962 Limited*, BL O/158/17.

issue, I find that this element will likely convey the same allusive concept. In my view, as a whole, the number and word combination '27 TALENT' (or 'TALENT 27') do not naturally hang together to form a unitary meaning that differs from the meaning of the individual number and word element themselves.¹⁰ The stylisation and background element in the applicant's mark do not add any additional conceptual meaning. Consequently, I consider the respective marks to be conceptually identical irrespective of whether the applicant's mark is read as '27 TALENT' or 'TALENT 27'.

Distinctive character of the opponent's mark

74. The distinctive character of a trade mark can be measured only, first, by reference to the goods or services in respect of which registration is sought and, second, by reference to the way it is perceived by the relevant public. In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*, 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

¹⁰ *Whyte and Mackay Ltd v Origin Wine UK Ltd and Another* [2015] EWHC 1271 (Ch) paras [18 - 21].

commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51).”

75. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the services, to those with high inherent distinctive character, such as invented words which have no allusive qualities. The distinctive character of a mark can be enhanced by virtue of the use that has been made of it. The opponent has not claimed that its mark has acquired enhanced distinctiveness through use and has filed insufficient evidence to support such a finding. Consequently, I have only the inherent position to consider.

76. With regards to the inherent distinctive character of the opponent’s mark, I note the applicant’s comment that:¹¹

“Both ‘Talent’ and ‘27’ are common, non-distinctive terms in the recruitment sector. The combination of such elements regardless of order does not inherently give rise to confusion.”

77. In response, the opponent states that:¹²

“While we accept that ‘Talent’ is a widely used term within the recruitment sector, the addition of the number ‘27’ is neither generic nor commonplace. This combination creates a distinctive mark.”

78. The earlier mark comprises the number ‘27’ followed by the word ‘Talent’. As previously stated, when considered as a whole the number and word combination do not naturally hang together or form a unitary meaning. In terms of the services claimed, I am of the view that the word ‘Talent’, meaning, inter alia, a natural skill or ability to be good at something, is allusive. Whilst the applicant’s submits that 27 is a common, non-distinctive term in the recruitment sector, no reason has been provided for why that is the case and absent of any evidence to support this assertion I do not consider

¹¹ Witness statement dated 19 May 2025.

¹² Witness statement, dated 6 August 2025.

the preceding number '27' to be descriptive or allusive of the services at issue. Accordingly, when considered as a whole, I find the mark to be inherently distinctive to a medium degree.

Likelihood of confusion

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

80. Earlier in the decision I found that:

- The parties' services vary from being identical to similar to a low degree.
- The average consumer for the services at issue is a member of the general public or a professional user, who will pay at least a medium degree of attention during the purchasing process (although, not the highest).
- The purchasing process for the services is predominantly visual, although I do not discount an aural component.

- The marks are visually similar to a very high degree; aurally similar to a very high degree, or aurally identical depending on how the mark is perceived; and conceptually identical.
- The earlier mark is inherently distinctive to a medium degree.

81. Taking the above into account, I am of the view that the differences between the marks are likely to be overlooked and are therefore likely to be mistakenly recalled or misremembered as each other, particularly when factoring in the principle of imperfect recollection. Whilst I bear in mind that some of the services are similar to only a low degree, I consider that the effect of the interdependency principle is such that there will still be confusion for these services. Consequently, I find there to be a likelihood of direct confusion. Even if the differing stylisation between the marks is recalled, and the applicant's mark is perceived as 'Talent 27' rather than '27 Talent', I find that this will simply be put down to an alternative mark being used by the same or economically linked undertaking.

CONCLUSION

82. The opposition under section 5(2)(b) succeeds in full. Accordingly, the applicant's mark is hereby, subject to any successful appeal of my decision, refused registration for all of the services applied for.

COSTS

83. Awards of costs are governed by Tribunal Practice Notice ("TPN") 1/2023. The opponent has been successful and would normally be entitled to a contribution towards its costs. However, as the opponent is unrepresented, the Tribunal wrote to the opponent on 2 September 2025 and invited it to indicate whether it intended to make a request for an award of costs. The opponent was informed that, if so, it should complete a pro-forma, providing details of the actual costs incurred and accurate estimates of the amount of time spent on various activities in dealing with the opposition. The opponent was informed that 'costs, other than official fees arising from

the action (excluding extensions of time), may not be awarded' if the pro-forma was not completed. The deadline for providing the costs proforma was 30 September 2025. However, the opponent failed to file a completed cost proforma with the Tribunal. Consequently, no award for costs will be made other than for the official fee. I therefore award costs to the opponent on the following basis:

Official fee	£100
Total	£100

84. I therefore order Talent 27 Ltd to pay 27 Talent Ltd the sum of £100. 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 23rd day of March 2026

Sam Congreve
For the Registrar