BL O/0245/25

IN THE MATTER OF THE TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK3936103 BY QATAR FOUNDATION FOR EDUCATION, SCIENCE AND COMMUNITY DEVELOPMENT FOR THE TRADE MARK

ARD

IN CLASSES 35, 36, 41, 42 & 45

AND THE OPPOSITION THERETO UNDER NO. 600003095

BY ARD SA

AND IN THE MATTER OF AN APPEAL FROM THE DECISION OF L NICHOLAS (O/1177/24) DATED 13 DECEMBER 2024.

DECISION

Introduction

1. This is an appeal by QATAR FOUNDATION FOR EDUCATION, SCIENCE AND COMMUNITY DEVELOPMENT ("**Appellant**") from decision O/1177/24 of Ms Laura Nicholas ("**Decision**") concerning the opposition by ARD SA ("**Respondent**") to the Appellant's application for the mark ARD ("**Application**").

2. The Application was filed on 20 July 2023 and published on 4 August 2023 in respect of the following goods and services:

   Class 35: *Business research relating to green and climate technologies and energy transition; business research consultation; business consultation in the fields of green and climate technologies and energy transition; business evaluations; business advice in the fields of green and climate technologies and energy transition; business development services, namely, providing start-up support for businesses of others; business support services, namely, business consulting to potential, start-up, early stage, and existing businesses and non-profits; business administration services; business accelerator and incubation services, namely, services to potential, start-up, early stage, and existing businesses and non-profits with investment and funding resources; business accelerator and incubation services, namely, business consulting and assisting third parties in launching and growing products or services in the fields of green and climate technologies and energy transition; business accelerator and incubation services, namely, providing offices, work spaces, and collaborative spaces containing business support services and business and technology equipment to potential, start-up, and early stage businesses and non-profits; business services, namely, assisting the owners of intellectual property and intangible assets in finding investors; assistance in business management and technology commercialization; promoting public awareness of green and climate technologies and energy transition; all of the aforesaid services in respect of green technology, climate technology and/or energy transition.*

Class 36: *Capital investment; capital investment services; providing venture capital, development capital, private equity and investment funding; providing working capital; business accelerator and incubation services, namely, providing funding to potential, start-up, and early stage businesses and non- profits; providing grants for projects in the fields of green and climate technologies and energy transition.*

Class 41: *Conducting training programs in the fields of science, technology, entrepreneurship, and business development; providing educational mentoring services in the fields of science, technology, entrepreneurship, and business development; providing business accelerator and incubator services in the nature of classes, seminars, workshops and educational conferences in the fields of science, technology, entrepreneurship, and business development; all of the aforesaid services in respect of green technology, climate technology and/or energy transition.*

Class 42: *Research and development in the field of energy transition; technology consultation and research in the field of energy transition.*

Class 45: *Licensing of intellectual property rights; consulting in the field of intellectual property licensing.*

3. The Respondent opposed the Applications on the basis of section 5(2)(b) of the Trade Marks Act 1994 against all services in classes 35, 41, 42 and 45. The Respondent relied upon the following mark ("**Earlier Mark**"):

WO01536915

ARD

EVERYDAY CREATIVE

International registration and designation date 13 March 2020

Date of protection in the UK: 23 March 2021

Swiss Priority date: 13 September 2019

4. The Respondent relied upon all services for which the Earlier Mark was registered:

Class 35: *Development of advertising concepts; marketing services for market introduction and maintenance of trademarks for goods and services (branding); trademark creation services; marketing research services; product marketing services; development and implementation of marketing strategies for others.*

Class 42: *Packaging design services; graphic arts designing; product design; design and development of virtual reality software; graphic design of promotional material; graphic design; graphic arts designing.*

5. The parties filed submissions in lieu of a hearing. In the Decision, L. Nicholas for the Registrar held that the opposition was successful in its entirety.

6. On 10 January 2025 the Appellant filed a Notice to Appeal to the Appointed Person against the Decision under Section 76 of the Trade Marks Act 1994.

The Hearing Officer's decision

7. The Hearing Officer held as follows (in summary, and insofar as is relevant to this appeal):

   a. The average consumer would be a professional or business. The level of attention paid would be higher than average. Visual considerations would dominate the selection process, although there is a possibility of an aural component;

   b. 'ARD' is the dominant and distinctive element of the Earlier Mark, with the device element and further wording playing much smaller roles. With the Application, the overall impression lies in 'ARD' as that is the only element.

   c. The marks are visually similar to a medium degree, aurally identical to consumers who do not articulate the words "everyday creative" in the Earlier Mark and similar to no more than a medium degree to consumers who do articulate those words. The marks are conceptually neutral with the 'everyday creative' element being a point of conceptual difference;

   d. The Earlier Mark is inherently distinctive to a high degree, with no enhanced distinctiveness through use;

   e. The levels of similarity of services are as set out below:

Application	**Earlier Mark**
Class 35	
Business research relating to green and climate technologies and energy transition; business research consultation	Similar to medium degree to *marketing research services*
Business consultation in the fields of green and climate technologies and energy transition; business evaluations; business advice in the fields of green and climate technologies and energy transition	Similar to low degree to *marketing research services*
Business development services, namely, providing start-up support for businesses of others; business support services, namely, business consulting to potential, start-up, early stage, and existing	Similar to medium degree to *development and implementation of marketing strategies for others*

businesses and non-profits; business accelerator and incubation services, namely, services to potential, start-up, early stage, and existing businesses and non-profits with investment and funding resources; business accelerator and incubation services, namely, business consulting and assisting third parties in launching and growing products or services in the fields of green and climate technologies and energy transition	
Business accelerator and incubation services, namely, providing offices, work spaces, and collaborative spaces containing business support services and business and technology equipment to potential, start-up, and early stage businesses and non-profits; business services, namely, assisting the owners of intellectual property and intangible assets in finding investors	Dissimilar, however Appellant has conceded a low level of similarity
Business administration services	Similar to low-medium degree to *product marketing services; development and implementation of marketing strategies for others*
Assistance in business management and technology commercialization	Similar to medium degree to *marketing services for market introduction and maintenance of trademarks for goods and services (branding)*
Promoting public awareness of green and climate technologies and energy transition	Dissimilar, however Appellant has conceded a low level of similarity
<u>Class 41</u>	
Conducting training programs in the fields of science, technology, entrepreneurship, and business development; providing educational mentoring services in the fields of science, technology, entrepreneurship, and business development; providing business accelerator and incubator services in the	Dissimilar, however Appellant has conceded a low level of similarity

nature of classes, seminars, workshops and educational conferences in the fields of science, technology, entrepreneurship, and business development; all of the aforesaid services in respect of green technology, climate technology and/or energy transition	
Class 42	
Research and development in the field of energy transition; technology consultation and research in the field of energy transition	Dissimilar, however Appellant has conceded a low level of similarity
Class 45	
Licensing of intellectual property rights; consulting in the field of intellectual property licensing	Similar to low-medium degree to *marketing services for market introduction and maintenance of trademarks for goods and services (branding); trademark creation services*

f. The Hearing Officer held that there is a likelihood of direct confusion in respect of all the services.

Grounds of Appeal

8. The Appellant's Grounds of Appeal are as follows:

   a. **Ground 1**: The Hearing Officer misread the Appellant's position in relation to the similarity of the respective services and erroneously proceeded on the basis that it had accepted there was a low level of similarity between the respective services. This led the Hearing Officer to make findings of similarity of the respective services, and thus a likelihood of confusion, solely on the basis of this misunderstood acceptance.

   b. **Ground 2**: The Hearing Officer erred in their application of the Treat criteria and this led the Hearing Officer into erroneous conclusions that there was similarity when, based on their own findings, there was none.

9. The Appellant's Counsel, Andrew Norris KC, expanded upon the above in his skeleton argument and at the hearing, and I set out below further details as are necessary to understand my overall conclusions. I am grateful to Mr Norris KC for his clear and helpful submissions. The Respondent did not file any written arguments nor participate in the hearing.

Standard of review

10. The approach to be adopted in an appeal hearing has been laid down a number of times in case law. It was summarised in *Axogen v Aviv* [2022] EWHC 95 (Ch) at §24-25:

<u>“Appellate Function</u>

24. Although I was referred to numerous cases on the subject (including *English v Emery Demibold & Struck Ltd* [2002] 1 WLR 2409, *REEF Trade Mark* [2003] RPC 5, *Fine & Country Ltd v Okotoks Ltd* [2014] FSR 11, *Fage UK Ltd v Chobani UK Ltd* [2014] EWCA Civ 5, *Shanks v Unilever Plc* [2014] RPC 29, *TT Education Ltd v Pie Corbett Consultancy* [2017] RPC 17, *Apple Inc v Arcadia Trading Limited* [2017] EWHC 440 (Ch), *Actavis Group PTC v ICOS Corporation* [2019] UKSC 1671 and *NINEPLUS* O/039/21), the approach of the appeal court to a statutory appeal under section 76(1) of the TMA is uncontroversial. I bear the following principles, relevant to the issues before me, firmly in mind:

i) The appeal is by way of a review, not a rehearing (see *TT Education Ltd v Pie Corbett Consultancy Ltd* (O/017/17) at [52(i)]);

ii) The appeal court will allow an appeal where the decision of the lower court was "wrong" (see CPR 52.11). Neither surprise at a Hearing Officer's conclusion, nor a belief that he or she has reached the wrong decision suffices to justify interference (*NINEPLUS* O/039/21 at [14]);

iii) The decision of the lower court will be "wrong" if the judge makes an error of law, which might involve asking the wrong question, failing to take account of relevant matters or taking into account irrelevant matters. Absent an error of law, the appellate court would be justified in concluding that the decision of the lower court was wrong if the judge's conclusion was "outside the bounds within which reasonable disagreement is possible" (*Actavis Group* at [81]);

iv) The approach required by the appeal court depends on a number of variables including the nature of the evaluation in question (*REEF Trade Mark* [2003] RPC per at [26]). There is a "spectrum of appropriate respect for the Registrar's determination depending on the nature of the decision" (*TT Education* at [52(ii)]), with decisions of primary fact at one end of the spectrum and multi-factorial decisions (of the type which the parties agree were made in this case by the Hearing Officer) being further along the spectrum.

v) In the case of a multifactorial assessment or evaluation, involving the weighing of different factors against each other, the appeal court should show a real reluctance, but not the very highest degree of reluctance, to interfere in the absence of a distinct and material error of principle. Special caution is required before overturning such decisions (*TT Education* at [52(iv)], *REEF* at [28] and *Fine & Country* at [50]-[51]).

vi) An error of principle is not confined to an error as to the law but extends to certain types of error in the application of a legal standard to the facts in an evaluation of those facts. The evaluative process is often a matter of degree upon which different judges can legitimately differ and an appellate court ought not to interfere unless it is satisfied that the judge's conclusion is outside the bounds within which reasonable disagreement is possible (*Actavis Group* at [80]).

vii) Another variable to be taken into account will be "the standing and experience of the fact-finding judge or tribunal" (*REEF* at [26], *Actavis Group* at [78]). Expert tribunals are charged with applying the law in the specialised fields and their decisions should be respected unless it is quite clear that they have misdirected themselves in law. Appellate courts should not rush to find such misdirections simply because they might have reached a different conclusion on the facts (*Shanks* at [28] citing the warning given by Baroness Hale in *AH (Sudan) v Secretary of State for the Home Department* [2007] UKHL 49).

viii) The appellate court should not treat a judgment as containing an error of principle simply because of its belief that the judgment or decision could have been better expressed; "The duty to give reasons must not be turned into an intolerable burden" (see *REEF* at [29]). The reasons need not be elaborate. There is no duty on a judge, in giving her reasons, to deal with every argument presented by counsel in support of his case. It is sufficient if what she says shows the basis on which she has acted (*English* at [17], *Fage* at [115]). The issues the resolution of which were vital to the judge's conclusions should be identified and the manner in which she resolved them explained (*English* at [19]).

ix) In evaluating the evidence, the appellate court is entitled to assume, absent good reason to the contrary, that the first instance judge has taken all of the evidence into account (*TT Education* at [52(vi)]).

25. In the context of appeals relating to the likelihood of confusion, an evaluative issue described by Mr Iain Purvis QC sitting as an Appointed Person in *ROCHESTER Trade Mark* BL O/049/17 at [31] as "indeterminate and open to debate", Mr Purvis QC went on to say this at [33]:

"…the reluctance of the Appointed Person to interfere with a decision of a Hearing Officer on likelihood of confusion is quite high for at least the following reasons:

(i) The decision involves the consideration of a large number of factors, whose relative weight is not laid down by law but is a matter of judgment for the tribunal on the particular facts of each case

(ii) The legal test 'likely to cause confusion amongst the average consumer' is inherently imprecise, not least because the average consumer is not a real person

(iii) The Hearing Officer is an experienced and well-trained tribunal, who deals with far more cases on a day-to-day basis than the Appellate tribunal

(iv) The legal test involves a prediction as to how the public might react to the presence of two trade marks in ordinary use in trade. Any wise person who has practised in this field will have come to recognize that it is often very difficult to make such a prediction with confidence. Jacob J (as he then was) made this point in the passing off case *Neutrogena v Golden* [1996] RPC 473 at 482:

'It was certainly my experience in practice that my own view as to the likelihood of deception was not always reliable. As I grew more experienced I said more and more "it depends on the evidence."'

Any sensible Appellate tribunal will therefore apply a healthy degree of self-doubt to its own opinion on the result of the legal test in any particular case.

34. I shall therefore approach this appeal on the basis that in the absence of a distinct and material error of principle, I ought not to interfere with the decision of the Hearing Officer unless I consider that his view on the issue of likelihood of confusion was clearly wrong in the sense that it was outside the range of views which could have been reasonably taken on the established facts."

11. To the above should be added:

- The judgment of the Court of Appeal in *Lidl Great Britain Ltd v. Tesco Stores Ltd* [2024] EWCA Civ 262, where Arnold LJ said at §110 “It is common ground that, in so far as the appeals challenge findings of fact made by the judge, this Court is only entitled to intervene if those findings are rationally insupportable”; and

- The Supreme Court’s guidance in *Lifestyle Equities CV v Amazon UK Services Ltd* [2024] UKSC 8 where it stated at §49 “…on a challenge to an evaluative decision of a first instance judge, the appeal court does not carry out the balancing exercise afresh but must ask whether the decision of the judge was wrong by reason of an identifiable flaw in the judge's treatment of the question to be decided, such as a gap in logic, a lack of consistency, or a failure to take into account some material factor, which undermines the cogency of the conclusion”.

12. I shall bear all the above in mind when reviewing the Decision.

Discussion

(1) Misreading of Appellant’s position in relation to similarity of services

13. As is clear from the table at §7(e) above, the Hearing Officer’s assessment was that certain groups of services in classes 35, 41 and 42 were not similar to any of the services in the Earlier Mark. Nevertheless, she held that the Appellant had conceded a low level of similarity, and went on to find that such services were similar to a low degree.

14. The Appellant contends that, first, the Appellant had made no such concession. Secondly, it contends that the Hearing Officer fell into error by holding that where the parties have accepted a level of similarity, she must find that level of similarity.

15. Dealing with the second point first, I addressed this question in my recent decision in *BEAK* BLO/0096/25. I concluded that where there has been a clear and unequivocal admission of similarity by an applicant, both the opponent and the Hearing Officer are entitled to rely on that admission, and the Hearing Officer will not fall into error in refusing to go behind the party’s admissions and determine similarity for him or herself. The Appellant contends that “Parties can agree all sorts of things that may be inappropriate for the Trade Mark Registrar to accept, including things that contravene the Trade Marks Act itself”. I consider that that submission has force in relation to matters which affect the public at large. For example, I agree that a Hearing Officer is unlikely to accept, say, an agreement that a non-distinctive mark does in fact have distinctive character. However, I cannot see that there is any public policy issue raised in relation to agreement as to similarity, which is of relevance only to the parties to the opposition and has no wider impact on the public.

16. Turning then to the first point, the Hearing Officer said at §15:

“Within the applicant’s Form TM8 and at paragraph 30 of their counterstatement they claim that:

> “Overall, there is a low level of similarity between the respective services. In most cases, there is no meaningful level of similarity at all.”

It is not clear what a “meaningful level of similarity” is. Nonetheless, the applicant has clearly admitted that there is a low level of similarity between the respective services. Therefore, I must find at least this level of similarity within my comparison below.

17. Did the Appellant make such a concession across all the opposed services? The Defence and Counterstatement said as follows in relation to similarity of services:

“3. The Opposition is based on section 5(2)(b) of the Act and relates to Classes 35, 41, 42 and 45 of the Application, therefore excluding Class 36. The Proprietor's Mark is not registered in respect of Classes 41 and 45, and yet the Opposition filing indicates that the Applicant's services in these Classes are "*identical or similar to the services*" relied on by the Proprietor in respect of Classes 35 and 42. The Applicant disputes this for the reasons set out below.

…

20. The overlapping Classes of the Proprietor's Mark and the Application are Classes 35 and 42. As mentioned in paragraph 3 above, whilst the Proprietor's Mark is not registered in respect of Classes 41 and 45, the Opposition filing contends that the Applicant's services in these Classes are "*identical or similar to the services*" relied on by the Proprietor in respect of Classes 35 and 42.

…

24. The services in issue have fundamentally different purposes. Just because both are provided to and by business does not give them any meaningful degree of similarity. Giving them their core meaning, the Class 35 services of the Proprietor’s Mark are intended for advertising and marketing and trade mark creation services and the Class 42 services are intended for packaging/product design and graphic design services. This is quite different from business research/consultancy for businesses from start-ups onwards.

…

<u>Class 35</u>

26. The Class 35 services covered by the Application are quite different from the Class 35 services applied for, particularly when each service is confined to its core meaning. The services applied for are directed to business research and consulting for a particular type of industry (green/climate transition). In contrast, as is set out above, the services of the Proprietor’s Mark are directed to advertising and marketing, which includes trade mark creation.

27. The services of the Contested Mark are highly unlikely to be noticed by or reach the consumer of the services provided by the Proprietor's Mark. The Proprietor's average consumers are likely to have an existing business or brand that requires specific advertising or marketing services in respect of and for which they are willing to pay. On

the other hand, the services of the Contested Mark would be sought after by a corporate entity in the energy transition and green/climate technology sector that requires investment, resources and technical know-how support in order to materialise a business idea or develop its business plan.

28. Class 35 of the Proprietor's Mark also covers "*marketing services for market introduction and maintenance of trademark creation services*" which is arguably similar to the Application's Class 45 specification, "*licensing of intellectual property rights; consulting in the field of intellectual property licensing*". But these are, in fact, distinct services. The subject matter may be the same but that is all. The services here of the Proprietor's Mark encompass specialist marketing services for a business. In contrast, the Applicant's Class 45 services relate to the strategic management of intellectual property rights, specifically the process of licensing. They involve negotiating, drafting, and overseeing licensing agreements for the use of a business' intellectual property. Consulting in this field may include advising on licensing strategies, terms, and compliance. The users, uses and purpose are all different.

Class 42

29. These services are really very different from each other. The Applicant's Class 41, 42 and 45 specifications do not cover packaging design services nor graphic design services. They are directed towards research, development and consultation in energy transition. That is unrelated to packaging, product and graphic design. Again, it is necessary to keep in mind the core part of each services, otherwise business services inevitably tend to bleed into each other.

30. Overall, there is a low level of similarity between the respective services. In most cases, there is no meaningful level of similarity at all.

No Likelihood of Confusion

31. There is a low level of similarity between the respective marks, and a low level of similarity between the respective services (at best) ..."

18. I consider that the following points are particularly relevant:

- The wording relied upon by the Hearing Officer "Overall, there is a low level of similarity between the respective services" related only to services in class 42, as it was set out underneath the heading "Class 42".
- Furthermore, that wording must be read in the context of the paragraph above which said "These services are really very different from each other".
- The Appellant said that the services "have fundamentally different purposes", "Just because both are provided to and by business does not give them any meaningful degree of similarity", and that the Class 35 and 42 services of the Earlier Mark are "quite different from business research/consultancy for businesses from start-ups onwards".
- The Appellant's *licensing of intellectual property rights; consulting in the field of intellectual property licensing in class 45* "are, in fact, distinct services" to those in class 35 of the Earlier Mark. Further, "The users, uses and purpose are all different".

19. Given the above, it is abundantly clear to me that, contrary to the Hearing Officer's finding, the Appellant did not make any general concession as to similarity. On the contrary, it strongly contended that many of the services were dissimilar. Furthermore, no such concession was made in the Appellant's skeleton argument submitted below. In my view, the Hearing Officer's conclusion was "outside the bounds within which reasonable disagreement is possible" and therefore wrong. Her findings that, but for the alleged admission, there was no similarity in relation to certain of the sets of services in the Application, were in fact correct. As similarity of goods/services is a prerequisite for a likelihood of confusion under s. 5(2)(b), the opposition must fail for such services.

20. The first ground of appeal accordingly succeeds.

(2) Error in application of *Treat* criteria

21. At §24 the Hearing Officer said, in relation to *Business research relating to green and climate technologies and energy transition; business research consultation*:

> "The applicant and opponent seem to be in agreement within their submissions that the class 35 services are all directed towards businesses and therefore, they overlap in user. I consider the opponent's best case here to be 'marketing research services' which overlaps in nature in so far as there is research being carried out relation to business matters. There might be an overlap in trade channels. They are not in competition nor are they complementary and therefore I consider them to be similar to a medium degree".

22. The Appellant contends that her reasoning supporting a medium degree of similarity resolves down to nothing more than "the respective services being directed to research carried out in relation to business matters", and that that is simply far too generalised a comparison. It relies on the decision of the Court of Appeal in *Reed Executive v Business Information* [2004] RPC 40 where, at [43], Jacob LJ held:

> "Before turning to these points it is as well to consider the general principles as to the construction of a specification of services. In *Avnet Inc v Isoact Ltd* [1998] F.S.R. 16, I said at p.19 that:
>
> > "specifications for services should be scrutinised carefully and they should not be given a wide construction covering a vast range of activities. They should be confined to the substance, as it were, the core of the possible meanings attributable to the rather general phrase".

23. I agree. In my view, the Hearing Officer made an error of principle in her application of the *Treat* criteria, namely by construing the services at far too high a level of generality.

24. At §25 the Hearing Officer said, in relation to *Business consultation in the fields of green and climate technologies and energy transition; business evaluations; business advice in the fields of green and climate technologies and energy transition*:

> "I consider the same findings as paragraph 24 apply here also, save the nature of the services is a step further away due to these services of the applicant's not being research based. I therefore find them to be similar to a low degree".

25. By the same reasoning as for the earlier services, her assessment was at too high a level of generality, which constitutes an error of principle.

26. I must now decide whether to remit this matter to the Registry for redetermination, or assess the level of similarity for myself. The Appellant asks me to assess it for myself. The Respondent chose not to attend the hearing or file any submissions – it could for example have requested that any redetermination be remitted, but it did not do so. I therefore consider myself entitled to determine similarity for myself.

27. The sole similarity found by the Hearing Officer was that the services were directed towards businesses. Once that is removed, there are no relevant similarities. *Business research* and *business research consultation,* with the limitation *"all of the aforesaid services in respect of green technology, climate technology and/or energy transition"* are simply not similar to *marketing research services*. The users will be distinct, and as the Hearing Officer held the services are neither in competition nor complementary. The only relevant similarity is that there may be an overlap in trade channels, which alone is insufficient. The services are dissimilar.

28. As for *Business consultation in the fields of green and climate technologies and energy transition; business evaluations; business advice in the fields of green and climate technologies and energy transition*, the above analysis applies even more strongly, given that the services are not research related.

29. The second ground of appeal accordingly succeeds.

Conclusion

30. The appeal is successful. The Application shall proceed to registration in respect of the following services which were either not opposed or for which the opposition was unsuccessful:

> **Class 35**: *Business research relating to green and climate technologies and energy transition; business research consultation; business consultation in the fields of green and climate technologies and energy transition; business evaluations; business advice in the fields of green and climate technologies and energy transition; business accelerator and incubation services, namely, providing offices, work spaces, and collaborative spaces containing business support services and business and technology equipment to potential, start-up, and early stage businesses and non-profits; business services, namely, assisting the owners of intellectual property and intangible assets in finding investors; promoting public awareness of green and climate technologies and energy transition; all of the aforesaid services in respect of green technology, climate technology and/or energy transition.*
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> **Class 36**: *Capital investment; capital investment services; providing venture capital, development capital, private equity and investment funding; providing working capital; business accelerator and incubation services, namely, providing funding to potential, start-up, and early stage businesses and non- profits; providing grants for projects in the fields of green and climate technologies and energy transition.*
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> **Class 41**: *Conducting training programs in the fields of science, technology, entrepreneurship, and business development; providing educational mentoring services in the fields of science, technology, entrepreneurship, and business development; providing business accelerator and incubator services in the nature of classes, seminars, workshops and educational conferences in the fields of science, technology, entrepreneurship, and business development; all of the aforesaid services in respect of green technology, climate technology and/or energy transition.*

Class 42: *Research and development in the field of energy transition; technology consultation and research in the field of energy transition.*

31. The Application is refused for the following services:

Class 35: *Business development services, namely, providing start-up support for businesses of others; business support services, namely, business consulting to potential, start-up, early stage, and existing businesses and non-profits; business accelerator and incubation services, namely, services to potential, start-up, early stage, and existing businesses and non-profits with investment and funding resources; business accelerator and incubation services, namely, business consulting and assisting third parties in launching and growing products or services in the fields of green and climate technologies and energy transition; Business administration services; Assistance in business management and technology commercialization*

Class 45: *Licensing of intellectual property rights; consulting in the field of intellectual property licensing.*

Costs

32. Clearly, the Appellant has been the successful party in this appeal. In accordance with the scale costs in TPN 1/2023, I order that the Respondent should pay the Appellant the sum of £1,500. That sum is payable within 21 days of this decision

33. As for costs below, the Hearing Officer ordered that the Appellant shall pay the Respondent the sum of £400. It seems to me that, in light of this appeal, the parties achieved roughly equal outcomes below. I accordingly overturn the Hearing Officer's costs award, and make no order in relation to the costs below.

Dr. Brian Whitehead

18 March 2025

Representation

Mr Andrew Norris KC of Counsel, instructed by Jones Day for the Appellant/ Applicant

The Respondent/ Opponent did not participate in this appeal