BL O/0302/26

IN THE MATTER OF THE TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00004132597 FOR THE FOLLOWING TRADE MARK IN CLASS 32 IN THE NAME OF NOOSH BRAND HOLDINGS LTD:

AND IN THE MATTER OF OPPOSITION NO. 600003601 BY LA COSTE DISTRIBUTION

AND IN THE MATTER OF AN APPEAL FROM THE CASE MANAGEMENT DECISION OF AKIRA KLASS DATED 26 NOVEMBER 2025

DECISION

Introduction

1. This is an appeal by Noosh Brand Holdings Ltd (the "**Applicant/Appellant**") from the case management decision of the Hearing Officer, Ms Akira Klass, dated 26 November 2025. The case management decision addresses an application for an extension of time by the Applicant to file an appeal to the decision of the Hearing Officer, Ms Teresa Perks, dated 10 September 2025 with number O/0831/25. This concerned a fast-track opposition by La Coste Distribution (the "**Opponent/Respondent**") to the Applicant's application for trade mark number UK00004132597 depicted below in class 32 (the "**Application**"). Ms Perks concluded that the Application should be refused in its entirety.

Background

2. Pursuant to section 76(1) and (2) of the Trade Marks Act 1994 (the "**Act**") an appeal lies from a decision of the Registrar to either an Appointed Person or to the Court. Rule 71(1) and (2) of the Trade Mark Rules 2008 explain that, when an appeal is made to an Appointed Person, Form TM55P should be filed within 28 days beginning immediately after the date of the Registrar's decision.

3. Accordingly, on handing down Ms Perks' decision on 10 September 2025, the Registrar wrote to the parties explaining:

> "Any appeal to the Appointed Person … must be filed on or before 08 October 2025 [28 days later]. To extend this period for appeals to the Appointed Person, detailed and compelling reasons must be submitted to the Registrar, on a TM9 with a fee of £100."

4. Pursuant to Rule 77 of the Trade Mark Rules 2008, either party may request an extension of the 28 day period.

5. A day after the 28 day period had elapsed, on 9 October 2025, the Applicant filed a Form TM9R with the relevant fee, seeking an extension of time of 60 days. The Applicant's reasons were as follows (my emphasis):

> "We have been actively engaged in seeking an amicable resolution with the opposing party, château La coste (NOOH by La coste), and have prepared a formal coexistence proposal to avoid unnecessary legal proceedings. Initial correspondence has been

exchanged, and a letter from our company director has been sent directly to château La coste outlining a fair and balanced settlement framework.

We are currently awaiting their response to our proposal and may need to hold a short round of discussions to confirm the agreed terms. Depending on their reply, we will either finalise the coexistence agreement or, if that proves unsuccessful, proceed with a formal appeal submission. The additional 60 days will provide the time necessary to conclude this process and determine whether litigation can be avoided.

The initial deadline coincided with the preparation of our correspondence to château la coste and subsequent clarification regarding the appropriate filing procedure for the extension request. We had submitted a TM9 Form and believed the process was complete, unaware that a separate TM9R form would be required once the appeal deadline had technically passed. The administrative delay in processing the payment reference compounded this misunderstanding. Our intent throughout has been to act in good faith and to reach a non-contentious resolution without burdening the tribunal unnecessarily. The additional 60 days will allow both parties the opportunity to finalise discussions that could make an appeal unnecessary."

6. In response, on 15 October 2025, the Registrar notified the parties that its preliminary view was to grant the extension of time, with the appeal to be filed on 8 December 2025. It explained that if either party disagreed with the preliminary view, it should request a hearing within 14 days, namely on or before 29 October 2025. On 29 October 2025, the Opponent responded stating that it disagreed and requested a hearing.

7. A case management conference took place on 21 November 2025. In summary, at the hearing the Opponent submitted that:

   a. nothing had been done by the Applicant in advance of the deadline;

   b. the Applicant only contacted the Opponent regarding settlement on the 8 or 9 October 2025;

   c. the Opponent had no instructions regarding a co-existence agreement; but

   d. the Opponent had been instructed to challenge the request for an extension of time; and

   e. the request for further time to file an appeal would unduly delay proceedings, resulting in further costs to the Opponent.

8. In turn, the Applicant explained that:

   a. It had not received a response from the Opponent to its correspondence of 8 or 9 October (some 43 or 44 days having elapsed); but

   b. Additional time was required to agree a co-existence agreement; and

   c. In the meantime, the Applicant had not filed any appeal.

9. Notably this account paints a different picture to that which is set out in the TM9R. The reference to being "actively engaged" in an amicable resolution, with "initial

correspondence" exchanged and a "formal coexistence" tabled, suggests that co-existence discussions had been commenced promptly after Ms Perks' decision and were suitably advanced. In fact, on the evidence before Ms Klass, 28 days had elapsed, at which point the Applicant sent a proposal of co-existence, with which the Opponent had not engaged.

10. When asked by the Hearing Officer what steps the Applicant had taken between Ms Perks' decision being handed down on 10 September 2025 and the filing of the Form TM9R, the Applicant explained that it was conducting research to understand its position and seeking legal representation.

11. By a case management decision dated 26 November 2025, Ms Klass refused the application for an extension of time. I address her reasons more fully below. The Applicant appeals that decision.

Grounds of Appeal

12. The Applicant advances the following three grounds of appeal:

    a. Ground 1: "The Registrar of Trade Marks erred in law when holding the Applicant's/Appellant's request for extension of time to the appeal period brought pursuant to Rule 77 of the Trade Marks Rules, 2008 failed."

    b. Ground 2: "The Registrar of Trade Marks misdirected himself when he held that the Applicant's/Appellant's request for extension of time to file its appeal against the decision of the Tribunal failed for lack of any compelling reasons."

    c. Ground 3: "The Registrar of Trade Marks misinterpreted the facts in the Ruling."

Standard of Review

13. The principles to be applied to an appeal are well established. They were summarised by Joanna Smith J in *Axogen Corp v. AVIV Scientific Ltd* [2022] EWHC 95 (Ch) at [24]. Further guidance has also been given by the Supreme Court in in *Iconix Luxembourg Holdings SARL v. Dream Paris Europe Inc* [2025] UKSC 25 at [93] to [95] as follows:

> "94. It is perhaps obvious, and certainly an inevitable conclusion drawn from experience, that reasonable minds, and in particular reasonable judicially trained minds, each faithfully applying the relevant law and principles, will come to different conclusions about the answer to these multifactorial questions. While of course the decision of an appellate court trumps that of the court below, the law has imposed structured constraints designed to prevent a free for all in a higher court whenever a party (with the necessary resources) wishes to challenge the first instance decision of the trial judge. The reasons for these constraints are set out in a string of well-known authorities including, in the intellectual property context, Fage UK Ltd v Chobani UK Ltd [2014] EWCA Civ 5; [2014] FSR 29, per Lewison LJ at para 114. The reasons there set out relevantly include the following:
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> (i) The trial is not a dress rehearsal. It is the first and last night of the show.
>
> (ii) Duplication of the trial judge's role on appeal is a disproportionate use of the limited resources of an appellate court.

(iii) In making his decisions the trial judge will have regard to the whole of the sea of evidence presented to him, whereas an appellate court will only be island hopping.

95. In Lifestyle Equities CV v Amazon UK Services Ltd [2024] UKSC 8; [2024] Bus LR 532 this court reviewed those constraints in a trade mark context. After citing from the Fage case this court in a joint judgment said, at paras 49- 50:

> '49. That does not, however, mean the appeal court is powerless to intervene where the judge has fallen into error in arriving at an evaluative decision such as whether an activity was or was not targeted at a particular territory. It may be possible to establish that the judge was plainly wrong or that there has been a significant error of principle; but the circumstances in which an effective challenge may be mounted to an evaluative decision are not limited to such cases. Many of the important authorities in this area were reviewed by the Court of Appeal in re Sprintroom Ltd [2019] 2 BCLC 617, paras 72–76. There, in a judgment to which all members of the court (McCombe, Leggatt and Rose LJJ) contributed, the court concluded, at para 76, in terms with which we agree, that 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.
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> 50. On the other hand, it is equally clear that, for the decision to be 'wrong' under CPR r 52.21(3), it is not enough to show, without more, that the appellate court might have arrived at a different evaluation.'"

14. In relation to appeals of case management decisions, guidance may be had from *Broughton v Kop Football (Cayman) Ltd* [2012] EWCA Civ 1743 at [51] in which Lewison LJ said:

> "Case management decisions are discretionary decisions. They often involve an attempt to find the least worst solution where parties have diametrically opposed interests. The discretion involved is entrusted to the first instance judge. An appellate court does not exercise the discretion for itself. It can interfere with the exercise of the discretion by a first instance judge where he has misdirected himself in law, has failed to take relevant factors into account, has taken into account irrelevant factors or has come to a decision that is plainly wrong in the sense of being outside the generous ambit where reasonable decision makers may disagree. So the question is not whether we would have made the same decisions as the judge. The question is whether the judge's decision was wrong in the sense that I have explained."

15. This was affirmed by the Supreme Court in *HRH Prince Abdulaziz Bin Mishal Bin Abdulaziz Al Saud v Apex Global Management Ltd* [2014] UKSC 64 at [13].

16. Appeals in relation to extensions of time were addressed in *A.J. and M.A. Levy's Trade Mark* [1999] RPC 291, 292. Here, the Appointed Person, Mr Clarke QC said:

"It has to be borne in mind that in the present proceedings what we are concerned with is an appeal and not a rehearing of the merits or otherwise of the application for the extension. That means, in my view, that the Appointed Person is only entitled to interfere with the decision of the registrar if it can be demonstrated that the discretion has been exercised in, what might be described as, an unreasonable fashion."

17. This was endorsed by the Appointed Person, Mr Thorley QC in O/481/00, who commented (page 3, line 9):

> "I think it is important in considering the exercise of discretion to bear mind that the officers at the registry have very great experience in regulating the proceedings before them and in principle they should be allowed to regulate proceedings as their experience directs and this tribunal should be slow to interfere in case management issues of the sort unless and until it is satisfied that the exercise of discretion was plainly wrong."

18. Further, the Court of Appeal in *Unik Bond SA v. Catbalogan Holdings Sarl* [2025] EWCA Civ 1594 has given the following guidance to the way appellate courts should approach the writing of judgments:

> "59. In *Re Portsmouth City Football Club Ltd (in liquidation)* [2013] EWCA Civ 916, [2013] Bus LR 1152 Mummery LJ (with whom Rimer and Underhill LJJ agreed) posed the question at [36]:
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> > "What sensible purpose could be served by this court repeating in its judgments detailed discussions of every point raised in the grounds of appeal and the skeleton arguments when they have already been dealt with correctly and in detail in the judgment under appeal? No purpose at all, in my view."
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> 60. He continued at [38]:
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> > "The proper administration of justice does not require this court to create work for itself, for other judges, for practitioners and for the public by producing yet another long and complicated judgment only to repeat what has already been fully explained in a sound judgment under appeal. If the judgment in the court below is correct, this court can legitimately adopt and affirm it without any obligation to say the same things over again in different words. The losing party will be told exactly why the appeal was dismissed: there was nothing wrong with the decision appealed or the reasons for it."

19. I have kept the above principles in mind when considering this appeal.

Discussion

20. In advance of the hearing of the appeal, the Opponent made written submissions, but the Applicant did not. I asked the parties to provide a bundle of the documents on which they proposed to rely at the hearing, but none was provided.

21. At the hearing of the appeal, the Applicant was represented by its Mr Yerro and the Opponent was represented by Ms Hamer of Forresters IP LLP. I am very grateful for their oral submissions, which were very helpful.

Ground 1 (Wrong in Law)

22. In support of this ground of appeal, the Applicant says that that the essence of Rule 77 is to avail the party who is dissatisfied with the decision of the Tribunal with the opportunity to appeal such a decision. I asked Mr Yerro to point me to an authority in support of this proposition, but he was unable to do so.

23. Rule 77(1) states:

> "Subject to paragraphs (4) and (5), the registrar may, at the request of the person or party concerned or at the registrar's own initiative extend a time or period prescribed by these Rules or a time or period specified by the registrar for doing any act and any extension under this paragraph shall be made subject to such conditions as the registrar may direct."

24. Rule 77 therefore confers on the Registrar a wide discretion, subject to certain exceptions, to grant extensions of time. This discretion is to be exercised in accordance with the guidance available. It is not (as the Applicant appears to suggest) directed specifically to appeals.

25. In terms of how the discretion is to be exercised, it is constructive to consider the comments of the Appointed Person, Mr Thorley QC, in O/481/00 (page 6, line 19 onwards) (my emphasis):

> "1. It must always be borne in mind that any application for an extension of time is seeking an indulgence from the tribunal. The Act and the rules lay down a comprehensive code for the conduct of prosecution of applications and for the conduct of opposition. The code presumes a normal case and provides for it.
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> 2. There is a public interest which clearly underlies the rules that oppositions and applications should not be allowed unreasonably to drag on.
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> 3. In all cases the registry must have regard to the overriding objective which is to ensure fairness to both parties. Thus, it can grant an extension when the facts of the case merit it.
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> 4. Accordingly, it must be incumbent on the application for the extension to show that the facts do merit it. In a normal case this will require the applicant to show clearly what he has done, what he wants to do and why it is that he has not been able to do it. This does not mean that in an appropriate case where he fails to show that he has acted diligently but that special circumstances exist an extension cannot be granted. However, in the normal case it is by showing what he has done and what he wants to do and why he has not done it that the registrar can be satisfied that granting an indulgence is in accordance with the overriding objective and that the delay is not being used so as to allow the system to be abused."

26. It follows that the discretion is not to be exercised to guard an appellant's right to an appeal, as the Applicant suggests. In this respect, it is useful to consider Mr Thorley QC's comments in BL O/299/00 addressing the Registrar's decision to grant an extension of time of three months to file an appeal (although this was not an issue before Mr Thorley QC):

"Whilst I accept that the Registry has power under ... the current Trade Marks Rules 2000, rule 68, to extend the time of 28 days provided for an appeal, this is a matter which must be approached with the greatest caution so as to ensure that the exercise of discretion does not undermine the purpose underlying the statutory provision. Appeals create uncertainty and it is in the interests of everyone that appeals are disposed of timeously. Extensions of time in which to enter notices of appeal are therefore not to be encouraged.

...

... I should not like it to be thought that extensions of time for serving appeal documents will be granted lightly."

27. This was subsequently reflected in the UKIPO's Tribunal Practice Note TPN 2/2008 (Appeals to the Appointed Person in Inter Partes Proceedings), which said the above comments should be taken into account when the Registrar exercises its discretion, explaining that they carry "even more force where a request to extend the period for filing an appeal is made after the end of the relevant period" (as is the case here).

28. I asked the parties if they contested these authorities and they said that they did not. The Applicant did, however, rely on the following additional authorities in its grounds of appeal which I address in turn:

    a. O/567/20: This is a decision of the Appointed Person, Professor Ruth Annand. Here, the Hearing Officer had refused the trade mark under opposition under section 5(3) of the Trade Marks Act 1994. The applicant appealed the decision to the Appointed Person, but the opponent filed a Respondent's Notice referring to the High Court accompanied with an email explaining that it would be making an application that the appeal be referred accordingly. The issue which fell to be determined by Professor Annand was whether the appeal should be referred to the High Court. I do not detect that it addresses the role of Rule 77 and the exercise of the discretion conferred thereunder. I asked Mr Yerro about this, but he was unable to explain its relevance either.

    b. O/861/21: This is a decision of the Hearing Officer, Mx Morris. Here, the Hearing Officer granted a retrospective extension of time to file an appeal to a cancellation of a trade mark, concluding that the extension was warranted because the prospective appellant was unaware of the decision having been in Iran for almost all of the duration of the 28 day period within which to lodge an appeal, where he had accompanying difficulties in email and telephone correspondence. I do not see that this assists the Applicant. Mx Morris directed themselves to the same authority as Ms Klass, O/481/00. In any event, by contrast to O/861/21, the evidence here is that the Applicant was aware of the decision but did nothing of substance until the deadline.

    c. *Amey Highways v West Sussex County Council* [2018] EWHC 1976 (TCC): This is a decision to grant an extension of time under the Public Contracts Regulations 2015, reg. 92(4), to allow a company to claim that a local authority had acted unlawfully in its procurement of a highways term service contract. I consider this authority to be of very limited assistance. It is specific the wording of reg. 92(4) (which requires a "good

reason" for an extension), which has been repealed in any event by the Procurement Act 2023. I asked Mr Yerro about this but, other than it addressed extensions of time again, he was unable to explain its probity.

d. Ms Hamer submitted that these authorities were of no relevance and may have been generated by artificial intelligence. Mr Yerro rejected this, explaining that they had been included on legal advice. While these authorities are of limited relevance for the reasons given above, I do not accept that they were necessarily generated by artificial intelligence. They are genuine authorities, at least two of which on their face pertain to extensions of time. They are not hallucinations.

29. In these circumstances, where Ms Klass' directed herself to O/481/00 (as well as *A.J. and M.A. Levy's Trade Mark* [1999] RPC 291 to which Mr Thorley QC refers in O/481/00) and the parties accept that this is the correct authority, I do not see a basis on which it can be asserted that the essence of Rule 77 is to avail the party who is dissatisfied with the decision of the Tribunal with the opportunity to appeal such a decision or that Ms Klass erred in law. The first ground fails.

30. I should note that the Applicant also submitted that the "Registrar of Trade Marks focused [sic] on whether the claimant had a good reason for not having commenced proceedings in time"[1] and the "application for extension of time causes no material prejudice to the ... Opponent". These are more properly assertions that Ms Klass erred in the exercise of her discretion, not at law. I address these under ground 2 below.

Ground 2 (Plainly Wrong)

31. During the course of the hearing, I clarified with the Applicant that the thrust of this ground was that the Registrar's decision to refuse an extension of time was plainly wrong. In support of this submission, the Applicant focussed on the following assertions:

a. Ms Klass failed to take into consideration the preliminary view;

b. Ms Klass' decision focussed on whether the Applicant had a good reason for not having filed the appeal in time;

c. Ms Klass erred in finding that there were no compelling reasons for an extension of time (and presumed that the Opponent was not interested in an amicable settlement); and

d. An extension of time causes no material prejudice to the Opponent.

These are addressed in turn.

32. With regard to the relevance of the preliminary view, it is constructive to consider the summary of best practice set out by the Appointed Person, Dr Brian Whitehead in BL O/1161/24 at [52] (my emphasis):

[1] At the hearing, Mr Yerro clarified that this should have read the 'Registrar focussed on whether the Applicant had a good reason for not having filed the appeal on time.'

"1. A party wishing to make an application for an extension of time, prior to expiry of the deadline, should make the application in writing using Form TM9.

2. The Registry will issue a preliminary view. Should either party disagree with the preliminary view, they should request a hearing. That request should be made within 14 days of the preliminary view.

3. Should the applicant wish to expand and/or clarify any of its reasons for the extension request, such further materials should be filed and served in writing prior to the hearing.

4. In the absence of any such further written materials, the hearing officer will normally consider the request for extension only on the basis of matters set out in the Form TM9. However, the consideration of the extension request at the hearing is ab initio – it is not a review of the preliminary view. If any further written materials are filed before the hearing, they will be taken into account together with the contents of the Form TM9.

5. Should a party who has not filed any further written materials seek to rely at the hearing on reasons and/or evidence not contained in the Form TM9, the hearing officer may treat the new reasons and/or evidence as an application for an extension out of time."

33. This makes clear that consideration of the extension request at the hearing is without reference to the preliminary view. This is sensible as the Registrar may have the benefit of additional evidence from the party objecting to the preliminary view, as is the case here (see paragraphs 7 to 9 above). I see no reason to depart from this approach.

34. As to Ms Klass' consideration of whether the Applicant had a good reason for not having filed the appeal in time, this is consistent with the authorities. As Mr Thorley QC explains in O/481/00 above, "in a normal case [of seeking an extension of time] this will require the applicant to show clearly what he has done, what he wants to do and why it is that he has not been able to do it."

35. Here, Ms Klass noted the Applicant's paucity of evidence as to what it did to advance its appeal and negotiate a co-existence agreement in the intervening 28 days following Ms Perks' decision (see paragraph 10 above). I agree. First, as the Applicant accepted, the communication from the UKIPO at paragraph 3 above was clear that an appeal should be filed within 28 days. It was not necessary to take legal advice to understand this. Second, the Applicant remained without legal representation throughout the process, including the appeal. Third, 28 days is ample time to seek legal advice and file an appeal in any event. As to the co-existence discussions, the evidence before Ms Klass was that the these had only been initiated on the expiry of the 28 day period. It is not available for parties to drag their heels and then, on the day of the deadline (or thereabouts), send a co-existence proposal while demanding that any appeal be delayed by 60 days (especially where the other party has not indicated it intends to engage with that co-existence proposal).

36. Turning to whether Ms Klass erred in finding that there were no compelling reasons for an extension of time, to the contrary she took into account the serious impact of not granting a longer extension of time, namely that the Applicant would lose its ability to appeal.

Consistent with Mr Thorley QC's approach above (see paragraph 25 above), she balanced this against the public interest in oppositions not being allowed unreasonably to drag on. She was right to do so, particularly where the fast track opposition procedure has been adopted. I would also add that the Registrar should also be mindful of the additional costs which flow from such delays.

37. Indeed, the Applicant recognises that Ms Klass considered the impact of the appeal being unreasonably allowed to drag on in its Grounds of Appeal. However, it asserts that "[t]here is no suggestion in this case that the 'finality and certainty' of the Tribunal's decision is to be deferred to 'an unknown date, weeks, potentially months in the future'." In response, Ms Hamer explained that this was precisely the consequence. As of 8 October 2025, the Opponent was of the view that it had a final determination of the validity of the Application. However, the request for an extension of time, its refusal and then the subsequent appeal of that decision has resulted in a delay of over 5 months to date, with the cost of two hearings. Should the refusal be overturned, one can assume a similar delay again. In this respect, I am with Ms Hamer: it is inevitable from any extension that finality and certainty is delayed.

38. The Applicant goes on to say that "... the Applicant/Appellant has filed its appeal with the fastest mode possible [and] "... it is clear that the Applicant/Appellant is not delaying the hearing of the appeal and is merely urging the tribunal to hear the appeal on its merits ..." (my emphasis). I asked Mr Yerro to explain to what appeal he was referring. He explained that an appeal to Ms Perks' decision had been filed on 8 December 2025, the implication being that should an extension be granted the appeal could proceed in a timely manner. Ms Hamer explained that she was not aware of such an appeal and the Applicant did not provide a copy. This was not a fact before Ms Klass (the appeal being filed after the application for an extension of time had been refused). In any event, if an appeal was filed on 8 December 2025, two months after the original deadline, I do not see how it can be said that the Applicant did not delay.

39. With regard to Ms Klass presuming that the Opponent was not interested in co-existence, I find that this was a fair presumption. The Opponent had opposed the Applicant's trade mark, obtained a successful decision, not responded to the co-existence proposal (some 43/44 days having elapsed) and objected to the extension of time. This is not the conduct of a party interested in co-existence. To this, the Applicant was only able to offer that the Opponent was simply taking its time. This is not persuasive

40. I should add that, during the course of the hearing before me, Mr Yerro submitted that the applicant had made a co-existence proposal in March 2025, to which the Opponent had not responded. Ms Hamer explained that her instructions were that the Opponent was not aware of such an approach. This point was not before Ms Klass. In any event, I do not see that it assists the Applicant. If a co-existence proposal had been made in March 2025 (to which the Opponent had not reciprocated), this is a good reason to conclude that a co-existence proposal some six/seven months later, after an adverse decision and on the expiry of the 28 day period for an appeal would not be successful.

41. Turning to whether the extension of time would cause no material prejudice to the Opponent, my comments at paragraph 36 above are repeated.

42. Taken together, this is not a case where the case management decision is wrong in the sense explained in *Broughton*. Ms Klass took the relevant factors into account, did not take into account irrelevant factors and, in my view, has not come to a decision that is plainly wrong. The second ground fails.

Ground 3 (Misinterpretation of the facts)

43. In support of this ground, the Applicant says in its Grounds of Appeal that on "[p]age 5, [p]aragraphs 2 and 3 of the decision, the Registrar mistook the Applicant/Appellant for the Respondent/Opponent and based the finding that there was no strong and compelling reason to justify an extension of time to the period to appeal on this mistake."

44. I asked Mr Yerro to take me to the part of Ms Klass' decision to which it was referring. Mr Yerro explained that the reference was incorrect and, in fact, it should be to page 4, paragraph 2 which reads:

> "Whilst the applicant's representative has been instructed by another firm in France, and therefore does not have direct access to the applicant, they informed me that they were instructed to oppose the extension of time. Cumulatively, this would suggest to me that the applicant does not have an interest in a co-existence agreement and, if it did, it would have been communicated at an earlier point" (my emphasis).

45. While I accept that this is a typographical error on the part of Ms Klass (with the reference to applicant incorrect), I do not think it can be fairly suggested that Ms Klass had misunderstood the facts and/or confused the parties. Ms Klass records elsewhere in her decision that it was the Opponent which was represented (not the Applicant), the Applicant proposed the co-existence agreement (not the Opponent) and it was the Opponent that resisted the extension of time (not the Applicant). It follows that the third ground fails.

Decision

46. The appeal fails for the reasons given above.

General Note

47. The effect of the outcome of this appeal is that the Applicant will not be able to appeal the substantive decision of Ms Perks. This is an outcome with consequence and not one which is made lightly. However, it should be seen in the context of the Registrar having to conduct cases justly and at proportionate cost, especially in fast track proceedings. This includes, among other things, saving expense and enforcing compliance with rules.

48. To avoid situations such as the one at hand, I encourage those who are the subject of an adverse decision who wish to appeal, to do so promptly and, if this is not possible, make an application for an extension of time as early as possible explaining their reasons.

Costs

49. For the costs below, the Hearing Officer ordered the Applicant to pay the Opponent £350 by way of contribution to its costs.

50. Since the Applicant has failed in its appeal, I order the Applicant to pay to the Opponent the sum of £350 by way of contribution to its costs of the Appeal.

51. Accordingly, I order that the Applicant must pay to the Opponent the total sum of £700 within 21 days of this decision.

Antony Craggs
Appointed Person
09 April 2026

Representation

Applicant/Appellant: Mr Yerro, Noosh Brand Holdings Ltd
Opponent/Respondent: Ms Hamer, Forresters IP LLP