O/0519/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK4185749

BY STIL SUNCARE LTD

TO REGISTER THE TRADE MARK:

IN CLASS 3

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NO. 600003737

BY CHRISTEL BARRON-HOUGH

Background and pleadings

1. On 8 April 2025, STIL SUNCARE LTD ("the applicant") applied to register the trade mark shown on the cover page of this decision in the UK. The application was published for opposition purposes on 27 June 2025. The goods applied for are as follows:

> Class 3: Sunscreen; Sunblock; Sunscreen lotions; Sunscreen creams; Waterproof sunscreen; Sunscreen cream; Water-resistant sunscreen; Sunscreen [for cosmetic use]; Sunscreen sticks; Sunscreen creams [for cosmetic use]; Sunscreen preparations; Suncare lotions; Sunscreens [for cosmetic use]; After-sun lotions; Suncare lotions [for cosmetic use]; Cosmetics for protecting the skin from sunburn; Sun protecting creams [cosmetics]; After-sun lotions [for cosmetic use]; After-sun creams; Sun care lotions; Sun care lotions [for cosmetic use]; Sun creams; Anti-aging moisturizers used as cosmetics; Skincare cosmetics; Sunscreens; After-sun milks [cosmetics]; Sun blocking lipsticks [cosmetics]; Sun creams [for cosmetic use]; Cosmetic sun milk lotions.

2. The application was opposed by Christel Barron-Hough ("the opponent") on 21 July 2025.[1] The opposition is based upon section 5(2)(b) of the Trade Marks Act 1994 ("the Act") and is against all of the applied for goods.

3. The opponent relies on the following series of trade marks:

UK3237744

STIL

stil

[1] It is acknowledged that the earlier mark is registered in the name of Christel Lundqvist which is acknowledged by the opponent as being the maiden name of Christel Barron-Hough

STIL Salon

Stil hair products

Stil hair care

Stil Salon

Filing date: 15 June 2017
Registration date: 1 September 2017

Relying upon all of the services for which the earlier mark is protected, namely: [2]

> Class 35: Retail services in relation to hair products.
>
> Class 44: Cosmetic treatment for the hair; Cosmetic treatment services for the body, face and hair; Hair braiding services; Hair care services; Hair coloring services; Hair colouring services; Hair curling services; Hair cutting; Hair cutting services; Hair dressing salon services; Hair perming services; Hair replacement; Hair restoration; Hair restoration services; Hair salon services; Hair salon services for children; Hair salon services for men; Hair salon services for women; Hair straightening services; Hair styling; Hair styling services; Hair tinting services; Hair treatment; Hair treatment services; Hair weaving; Haircare services; Hairdressing; Hairdressing salon services; Hairdressing salons; Hairdressing services.

4. The opponent claims that the marks are 'too similar in too close an industry'.[3] Further, as their mark was registered more than five years' prior to the application of the contested mark, the opponent supplied evidence to support proof of use of their mark for some services which I have detailed further below.

[2] I note that the opponent has marked the box at Q5 of the Form TM7 as 'some goods and services' however, the services noted within the box are all of the services for which the series of marks is registered.
[3] Form TM7F, Q16, page 8

5. The applicant filed a counterstatement denying the claims made.

6. This is an opposition to which the Trade Marks (Fast Track Opposition) (Amendment) Rules 2013, S.I. 2013 No. 2235 apply, Rule 6 of those rules disapplies paragraphs 1 to 3 of Rule 20 of the Trade Mark Rules 2008 but provides that Rule 20(4) shall continue to apply. Rule 20(4) states that:

> "(4) The registrar may, at any time, give leave to either party to file evidence upon such terms as the registrar thinks fit."

7. Other than proof of use evidence, the fast track opposition procedure does not include the routine filing of evidence. The net effect of the above rules is to require the parties to seek leave in order to file (further) evidence in fast track oppositions. Neither party sought leave to file further evidence.

8. Rule 62(5) of the Fast Track Opposition Rules (as amended) states that arguments in fast track proceedings shall be heard orally only if (i) the Office requests it or (ii) either party to the proceedings requests it and the registrar considers that oral proceedings are necessary to deal with the case justly and at proportionate cost; otherwise, written arguments will be taken. A hearing was neither requested nor considered necessary. This decision is taken following a careful consideration of the papers.

9. Both parties are self-represented in these proceedings.

10. The provisions of the Act relied upon in these proceedings are assimilated law, as they are derived from EU law. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 (as amended by Schedule 2 of the Retained EU Law (Revocation and Reform) Act 2023) requires tribunals applying assimilated law to follow assimilated EU case law. That is why this decision refers to decisions of the EU courts which predate the UK's withdrawal from the EU.

Evidence

11. The opponent provided evidence within the Form TM7F together with 54 exhibits. This evidence was provided by Christel Barron-Hough and the Form TM7F is dated 20 July 2025. The purpose of this evidence is to show proof of use of the opponent's mark.

Decision

Section 5(2)(b)

12. Section 5(2)(b) of the Act is 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".

13. Section 5A of the Act is as follows:

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

Proof of use

14. The Opponent's earlier marks had been registered for more than five years at the filing date of the application and therefore the proof of use provisions apply.

15. The proof of use provisions are set out in section 6A of the Act, the relevant parts of which state:

> "(1) This section applies where
>
> (a) an application for registration of a trade mark has been published,
>
> (b) there is an earlier trade mark of a kind falling within section 6(1)(a), (b) or (ba) in relation to which the conditions set out in section 5(1), (2) or (3) obtain, and
>
> (c) the registration procedure for the earlier trade mark was completed before the start of the relevant period.
>
> (1A) In this section "the relevant period" means the period of 5 years ending with the date of the application for registration mentioned in subsection (1)(a) or (where applicable) the date of the priority claimed for that application.
>
> (2) In opposition proceedings, the registrar shall not refuse to register the trade mark by reason of the earlier trade mark unless the use conditions are met.
>
> (3) The use conditions are met if-
>
> (a) within the relevant period the earlier trade mark has been put to genuine use in the United Kingdom by the proprietor or with his consent in relation to the goods or services for which it is registered, or
>
> (b) the earlier trade mark has not been so used, but there are proper reasons for non-use.

(4) For these purposes-

(a) use of a trade mark includes use in a form (the "variant form") differing in elements which do not alter the distinctive character of the mark in the form in which it was registered (regardless of whether or not the trade mark in the variant form is also registered in the name of the proprietor), and

(b) use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.

[(5) Repealed]

(6) Where an earlier trade mark satisfies the use conditions in respect of some only of the goods or services for which it is registered, it shall be treated for the purposes of this section as if it were registered only in respect of those goods or services.
…"

16. Section 100 of the Act is also relevant, which reads:

"If in any civil proceedings under this Act a question arises as to the use to which a registered trade mark has been put, it is for the proprietor to show what use has been made of it."

17. Pursuant to section 6A of the Act, the relevant period for assessing whether there has been genuine use of the Opponent's marks is the five-year period ending with Applicant's filing date i.e. 9 April 2020 to 8 April 2025.

18. I note within Question 7 of the Form TM7F the opponent states that they are claiming use for the following services only:

Class 35: Retail services in relation to hair products.

Class 44: Hair colouring services; Hair cutting services; Hair styling services; Hair treatment services; Hairdressing salon services; Hair salon services; Cosmetic treatment for the hair.

19. Within the Counterstatement attached to the Form TM8, particularly at paragraphs 6 and 7, the applicant appears to accept that the opponent has shown use in relation to some of those services listed above. The applicant states that "the opponent operates a location-based hairdressing studio in Chelsea providing in-person services" and that the opponent's evidence "shows extensive salon branding, press features, awards and signage all confided to hair dressing and beauty-salon services". I therefore find that the applicant has accepted that the opponent has shown use in relation to the claimed class 44 services listed in the paragraph above. As the applicant has not mentioned any retail services, I must continue with the assessment of proof of use specifically in relation to the class 35 'retail services in relation to hair products'.

20. In *easyGroup Ltd v Nuclei Ltd & Ors* [2023] EWCA Civ 1247, Arnold LJ summarised the law relating to genuine use as follows:

> "105. The principles applicable to determining whether there has been genuine use of a trade mark have been considered by the CJEU in a considerable number of cases, the principal decisions being Case C-40/01 *Ansul BV v Ajax Brandbeveiliging BV* [2003] ECR I-2439, Case C-259/02 *La Mer Technology Inc v Laboratories Goemar SA* [2004] ECR I-1159, Case C-416/04 P *Sunrider Corp v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [2006] ECR I-4237, Case C-442/07 *Verein Radetsky-Order v Bundervsvereinigung Kamaradschaft 'Feldmarschall Radetsky'*[2008] ECR I-9223, Case C-495/07 *Silberquelle GmbH v Maselli-Strickmode GmbH* [2009] ECR I-2759, Case C-149/11 *Leno Merken BV v Hagelkruis Beheer BV* [EU:C:2012:816], Case C-609/11 *Centrotherm Systemtechnik GmbH v Centrotherm Clean Solutions GmbH & Co KG* [EU:C:2013:592], Case C-141/13 P *Reber Holding & Co KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [EU:C:2014:2089], Case C-689/15 *W.F. Gözze*

Frottierweberei GmbH v Verein Bremer Baumwollbörse [EU:C:2017:434] and Joined Cases C–720/18 and C–721/18 *Ferrari SpA v DU* [EU:C:2020:854].

106. Ignoring issues which do not arise in the present case, such as use in relation to spare parts or second-hand goods and use in relation to a sub-category of goods or services, the principles may be summarised as follows:

(1) Genuine use means actual use of the trade mark by the proprietor or by a third party with authority to use the mark: *Ansul* at [35] and [37].

(2) The use must be more than merely token, that is to say, serving solely to preserve the rights conferred by the registration of the mark: *Ansul* at[36]; *Sunrider* at [70]; *Verein* at [13]; *Centrotherm* at [71]; *Leno* at [29]; *Ferrari* at [32].

(3) The use must be consistent with the essential function of a trade mark, which is to guarantee the identity of the origin of the goods or services to the consumer or end user by enabling him to distinguish the goods or services from others which have another origin: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Silberquelle* at [17]; *Centrotherm* at [71]; *Leno* at [29]; *Gözze* at [37], [40]; *Ferrari* at [32].

(4) Use of the mark must relate to goods or services which are already marketed or which are about to be marketed and for which preparations to secure customers are under way, particularly in the form of advertising campaigns: *Ansul* at [37]. Internal use by the proprietor does not suffice: *Ansul* at [37]; *Verein* at [14]. Nor does the distribution of promotional items as a reward for the purchase of other goods and to encourage the sale of the latter: *Silberquelle* at [20]-[21]. But use by a non-profit making association can constitute genuine use: *Verein* at [16]-[23].

(5) The use must be by way of real commercial exploitation of the mark on the market for the relevant goods or services, that is to say, use in accordance with the commercial raison d'être of the mark, which is to create or preserve an outlet

for the goods or services that bear the mark: *Ansul* at [37]-[38]; *Verein* at [14]; *Silberquelle* at [18]; *Centrotherm* at [71].

(6) All the relevant facts and circumstances must be taken into account in determining whether there is real commercial exploitation of the mark, including: (a) whether such use is viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods and services in question; (b) the nature of the goods or services; (c) the characteristics of the market concerned; (d) the scale and frequency of use of the mark; (e) whether the mark is used for the purpose of marketing all the goods and services covered by the mark or just some of them; (f) the evidence that the proprietor is able to provide; and (g) the territorial extent of the use: *Ansul* at [38] and [39]; *La Mer* at [22]-[23]; *Sunrider* at [70]-[71], [76]; *Centrotherm* at [72]-[76]; *Reber* at [29], [32]-[34]; *Leno* at [29]-[30], [56]; *Ferrari* at [33].

(7) Use of the mark need not always be quantitatively significant for it to be deemed genuine. Even minimal use may qualify as genuine use if it is deemed to be justified in the economic sector concerned for the purpose of creating or preserving market share for the relevant goods or services. For example, use of the mark by a single client which imports the relevant goods can be sufficient to demonstrate that such use is genuine, if it appears that the import operation has a genuine commercial justification for the proprietor. Thus there is no de minimis rule: *Ansul* at [39]; *La Mer* at [21], [24] and [25]; *Sunrider* at [72]; *Leno* at [55].

(8) It is not the case that every proven commercial use of the mark may automatically be deemed to constitute genuine use: *Reber* at [32]."

21. The opponent has provided turnover figures as 'circa £900k - £1m per annum' with no further details. The photo evidence (which appears to mostly be undated) consists of: job advert posters for 'assistants, stylists, colour technicians, and front of house staff'; various photos of the outside of the 'salon' where it states it is a "award winning colour specialist salon"; various photos of hairdressing awards; pricing lists for hair

services; a branded bottle of hand sanitizer; a bottle of an unidentifiable product with a ‘Stil’ sticker and price on it; various articles referring to the salon/hairdressing.

22. The focus on the evidence is plainly on hair salon/hair dressing services. The only photo that might assist the claim for retail services in relation to hair products is a photo of a price sticker on a product. However, the photo does not identify what the product is and I have no further evidence of retail sales of hair products, no turnover or advertising in relation to those services specifically either. As a result, I cannot say that the opponent has made a real commercial exploitation of the mark on the market for the relevant services as per the caselaw above. Therefore, I find that the opponent has not shown sufficient evidence to prove use of their mark in relation to ‘retail services in relation to hair products’ in class 35.

23. I shall therefore proceed on the basis that the opponent can rely on the following services which they outlined in their Form TM7F:

> Class 44: Hair colouring services; Hair cutting services; Hair styling services; Hair treatment services; Hairdressing salon services; Hair salon services; Cosmetic treatment for the hair.

Section 5(2)(b) caselaw

24. 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:

> The principles
>
> (a) The likelihood of confusion must be appreciated globally, taking account of all relevant factors;
>
> (b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to

make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

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

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

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

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

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

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

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

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

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

Comparison of goods and services

25. In comparing the respective specifications, all relevant factors should be considered, as per *Canon*, where the CJEU stated at paragraph 23 of its judgment:

> "In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, 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."

26. The relevant factors identified by Jacob J. (as he then was) in the Treat case, [1996] R.P.C. 281, for assessing similarity were:

(a) The respective uses of the respective goods or services;

(b) The respective users of the respective goods or services;

(c) The physical nature of the goods or acts of service;

(d) The respective trade channels through which the goods or services reach the market;

(e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be, found in supermarkets and in particular whether they are, or are likely to be, found on the same or different shelves;

(f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance

whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.

27. Further, in *Kurt Hesse v OHIM*,[4] 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*,[5] the General Court stated that "complementary" means:

> "…there is 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."

28. I bear in mind that it is permissible to group goods together for the purposes of assessment: *Separode Trade Mark*:[6]

> "The determination must be made with reference to each of the different species of goods listed in the opposed application for registration; if and to the extent that the list includes goods which are sufficiently comparable to be assessable for registration in essentially the same way for essentially the same reasons, the decision taker may address them collectively in his or her decision."

29. The goods and services to be compared are shown in the table below:

Contested goods	**Earlier services**
Class 3: Sunscreen; Sunblock; Sunscreen lotions; Sunscreen creams; Waterproof sunscreen; Sunscreen cream; Water-resistant sunscreen; Sunscreen [for cosmetic use];	Class 44: Hair colouring services; Hair cutting services; Hair styling services; Hair treatment services; Hairdressing salon services; Hair salon services; Cosmetic treatment for the hair.

[4] Case C-50/15 P
[5] Case T-325/06
[6] BL O/399/10

Sunscreen sticks; Sunscreen creams [for cosmetic use]; Sunscreen preparations; Suncare lotions; Sunscreens [for cosmetic use]; After-sun lotions; Suncare lotions [for cosmetic use]; Cosmetics for protecting the skin from sunburn; Sun protecting creams [cosmetics]; After-sun lotions [for cosmetic use]; After-sun creams; Sun care lotions; Sun care lotions [for cosmetic use]; Sun creams; Anti-aging moisturizers used as cosmetics; Skincare cosmetics; Sunscreens; After-sun milks [cosmetics]; Sun blocking lipsticks [cosmetics]; Sun creams [for cosmetic use]; Cosmetic sun milk lotions.	

Sunscreen; Sunblock; Sunscreen lotions; Sunscreen creams; Waterproof sunscreen; Sunscreen cream; Water-resistant sunscreen; Sunscreen [for cosmetic use]; Sunscreen sticks; Sunscreen creams [for cosmetic use]; Sunscreen preparations; Suncare lotions; Sunscreens [for cosmetic use]; After-sun lotions; Suncare lotions [for cosmetic use]; Cosmetics for protecting the skin from sunburn; Sun protecting creams [cosmetics]; After-sun lotions [for cosmetic use]; After-sun creams; Sun care lotions; Sun care lotions [for cosmetic use]; Sun creams; Sunscreens; After-sun milks [cosmetics]; Sun blocking lipsticks [cosmetics]; Sun creams [for cosmetic use]; Cosmetic sun milk lotions.

30. The above goods are all sun protection goods and, therefore, have a different use compared to the services of the opponent, which are hairdressing/hair salon services. They obviously differ in nature as the applicant's terms are goods versus the opponent's services. Other than the fact that they are both purchased by the general public, there is little tangible similarity between the goods and services. The trade channels are unlikely to be shared. The terms are not complementary nor are they in competition. I therefore find these goods to be dissimilar.

Anti-aging moisturizers used as cosmetics; Skincare cosmetics;

31. The above goods from the applicant's specification are skincare cosmetics. I consider that the same arguments from paragraph 30 above apply here, the only overlap would be that the purchaser is a member of the general public or that they are both contained within the beauty industry generally, and this is not enough on its own to make a finding of similarity. I therefore also find these goods to be dissimilar.

32. In *eSure Insurance v Direct Line Insurance*, [2008] ETMR 77 CA, Lady Justice Arden stated that:

> "49..... I do not find any threshold condition in the jurisprudence of the Court of Justice cited to us. Moreover I consider that no useful purpose is served by holding that there is some minimum threshold level of similarity that has to be shown. If there is no similarity at all, there is no likelihood of confusion to be considered. If there is some similarity, then the likelihood of confusion has to be considered but it is unnecessary to interpose a need to find a minimum level of similarity."

33. As I have found no similarity for any of the applicant's goods, the opposition in relation to them fails here.

Conclusion

34. The opposition fails in its entirety, and the application may proceed to registration, subject to any appeal:

Costs

35. Awards of costs are governed by Annex A of Tribunal Practice Notice ("TPN") 1/2023. The applicant would normally be entitled to a contribution towards its costs.

36. However, as the applicant is unrepresented, following receipt of the admissible Form TM8, the tribunal wrote to the parties and invited them to indicate whether they intended to make a request for an award of costs. The parties were informed that, if so, they should complete a Pro Forma, providing details of their actual costs and accurate estimates of the amount of time spent on various activities associated with the proceedings. They were informed that "if the pro forma is not completed and returned, costs, other than official fees arising from the action (excluding extensions of time) may not be awarded".

37. The applicant did not file a completed Pro Forma and paid no official fees. Therefore, I make no award of costs in this matter.

Dated this 22nd day of June 2026

L Nicholas
For the Registrar