

O/0641/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NUMBER 4241498

BY AMBITIOUS HYPE GROUP LTD

TO REGISTER THE FOLLOWING TRADE MARK:

INNER HYPE

IN CLASSES 16, 25, 32 & 41

AND

THE OPPOSITION THERETO UNDER NUMBER 600003872

BY HYPE-IP LIMITED

Background and pleadings

1. On 30 July 2025, Ambitious Hype Group Ltd (“the applicant”) applied to register the trade mark “INNER HYPE” in the UK in classes 16, 25, 32 and 41. It was published in the Trade Marks Journal on 15 August 2025. The following goods and services are opposed in these proceedings:

Class 32: Water; Drinking water; Drinking spring water.

Class 41: Personal development training; Personal development courses; Provision of training courses in personal development; Life coaching (training); Training or education services in the field of life coaching; Coaching; Coaching services; Health and wellness training.

2. On 12 November 2025, HYPE-IP LIMITED (“the opponent”) partially opposed the trade mark under the Fast Track opposition procedure,¹ based upon Section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). This is on the basis of its earlier UK trade marks:

1. HYPE CBD

UK registration number: UK00003607894

Filing date: 10 March 2021

Registration date: 23 July 2021

The following goods are relied upon:

Class 32: Non-alcoholic beverages.

(The opponent’s earlier ‘894 registration); and

2. HYPE SPORTS

UK registration number: UK00003615805

Filing date: 24 March 2021

Registration date: 12 November 2021

¹ Pursuant to The Trade Marks (Fast Track Opposition) (Amendment) Rules 2013.

The following goods are relied upon:

Class 32: Mineral and aerated waters and other non-alcoholic drinks.

(The opponent's earlier '805 registration); and

3. HYPE STUDIOS

UK registration number: UK00003688311

Filing date: 31 August 2021

Registration date: 17 December 2021

The following goods are relied upon:

Class 41: Entertainment in the nature of competition in the field of athletics and academics; Organisation and conducting of sports competitions; Education services, namely providing classes, seminars, workshops in the field of fashion, culture, art, music and entertainment; Organising conferences in the field of education, culture, sports and entertainment for non-business and non-commercial purposes; Sports instruction services; Sports training services.

(The opponent's earlier '311 registration).

3. By virtue of their earlier filing dates, the opponent's above registrations constitute earlier marks in accordance with section 6 of the Act. In accordance with section 6A of the Act, the opponent's earlier marks are not subject to proof of use and so the opponent may rely upon all the goods and services for which these marks are registered.

4. Under section 5(2)(b), the opponent claims that the respective goods and services are identical or highly similar and that the marks are highly similar, and that, as such, there will be a likelihood of confusion between the marks.

5. The applicant filed a counterstatement in which it submits that there is no likelihood of confusion.

6. Neither party requested leave to file evidence or for an oral hearing in this fast-track opposition. Only the opponent filed submissions in lieu of a hearing. Therefore, this decision is taken following careful consideration of the papers on file.

7. The opponent is represented by Lara Grant. The applicant is unrepresented.

8. 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.

Preliminary issues

9. In its counterstatement, the applicant states various ways in which the goods and services sold by the opponent differ from those sold by the applicant. One example is that the applicant's goods "consist solely of water", while the opponent's goods "are formulated products containing stimulants or active functional ingredients designed to alter energy, performance, or relaxation". The applicant appears to be submitting that there is no likelihood of confusion between the marks on the basis that the parties operate in different market sectors.

10. I remind myself of the findings of Dr Brian Whitehead sitting as the Appointed Person in the *City Storage Systems LLC v Kenmark Kitchen Limited*,² where he stated:

"18. [...] The authors of Kerly state at 11-055: "it is the goods or services covered by the specification of the marks at issue that must be considered when making this assessment, and not the goods or services actually marketed under those marks", referring to *Present-Service Ullrich GmbH & Co KG v OHIM* (T-66/11) [2013] E.T.M.R. 29. In that case, the General Court said at 45:

"Secondly, the applicant's claim that it operates in a completely different commercial sector from the intervener is also irrelevant. In order to assess the similarity of the goods or services at issue for the purposes of art.8(1)(b) of

² Decision BL O/0065/24

Regulation 207/2009, the group of goods or services protected by the marks at issue must be taken into account, and not the goods or services actually marketed under those marks”.

11. It follows that, in my assessment, I must look at the similarity of the goods and services solely on the basis of those registered and applied for and it is impermissible for me to take into account the goods and services actually marketed by the parties. I thus disregard these submissions from the applicant.

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.”

Section 5A

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.”

The principles

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

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

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, 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, in certain circumstances, be dominated by one or more of its components;

(f) and beyond the usual case, where the overall impression created by a mark depends heavily on the dominant features of the mark, it is quite possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

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

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

- (i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;
- (j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense; and
- (k) if the association between the marks creates a risk that the public might believe that the respective goods or services come from the same or economically linked undertakings, there is a likelihood of confusion.

Comparison of goods and services

15. In the judgment of the Court of Justice of the European Union (“CJEU”) in *Canon*, Case C-39/97, the court stated at paragraph 23 of its judgment that:

“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.”

16. 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.

17. In *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T- 133/05, the General Court (“GC”) stated that:

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

18. With this in mind, the goods and services for comparison are as follows:

Opponent’s goods and services:	Applicant’s contested goods and services:
The opponent’s earlier ‘894 registration: <i>Class 32: Non-alcoholic beverages.</i> The opponent’s earlier ‘805 registration: <i>Class 32: Mineral and aerated waters and other non-alcoholic drinks.</i> The opponent’s earlier ‘311 registration: <i>Class 41: Entertainment in the nature of competitions in the field of athletics and academics; organisation and conducting of sports competitions; education services, namely, providing classes, seminars, workshops in the field of fashion, culture,</i>	<i>Class 32: Water; drinking water; drinking spring water.</i> <i>Class 41: Personal development training; personal development courses; provision of training courses in personal development; life coaching (training); training or education services in the field of life coaching; coaching; coaching services; health and wellness training.</i>

<i>art, music and entertainment; organising conferences in the fields of education, culture, sports and entertainment for non-business and non-commercial purposes; sports instruction services; sports training services.</i>	
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Class 32

Water; drinking water; drinking spring water.

19. The above goods fall under the scope of the opponent's 'non-alcoholic beverages' and 'mineral and aerated waters and other non-alcoholic drinks', as protected under the '894 and '805 registrations, respectively. The goods are therefore identical according to the principles of *Meric*.

Class 41

Personal development training; personal development courses; provision of training courses in personal development; life coaching (training); training or education services in the field of life coaching

20. In its pleadings, the opponent pleads that the above services are highly similar to its 'education services, namely, providing classes, seminars, workshops in the field of fashion, culture, art, music and entertainment', due to the services having the same consumers, being offered in the same locations and having the same end purpose, being "the development of an area of the intellect, improving a particular skill or learning something new".

21. I consider the above services to relate to education classes, courses and coaching for the purpose of self-improvement. I consider the personal development services to relate to generalised education relating to this, and the life coaching services to relate to an individualised education focused on the user's life.

22. The above services broadly overlap in purpose with the opponent's 'education services, namely, providing classes, seminars, workshops in the field of fashion,

culture, art, music and entertainment’ as they all have the broad purpose of education. However, the specified purposes of the contested services are different. The users of the services overlap where both are used by the general public. The nature of the services also overlap as all of the services could be offered in the form of classes, taking place either online or in a classroom. Trade channels may also overlap as adult education centres are likely to offer classes relating to a wide range of topics, including fashion, culture, art, music and entertainment, as well as personal development and life coaching. There is no competition or complementarity. Overall, I find the above services to have a medium degree of similarity to the opponent’s ‘education services, namely, providing classes, seminars, workshops in the field of fashion, culture, art, music and entertainment’.

Coaching; coaching services

23. The above services could potentially encompass a wide range of services, including sports coaching. The services therefore either encompass entirely, or overlap in scope with, the opponent’s ‘sports training services’. The above services are therefore identical according to the principles of *Meric*.

Health and wellness training

24. The above services are most similar to the opponent’s ‘sports training services’. Their purpose overlaps as both are training services provided to improve an individual’s knowledge, skills or physical condition. Their nature overlaps as both can be provided as educational classes, with both services containing theoretical and practical elements. Their users overlap as both will be used by members of the general public seeking self-improvement. Trade channels differ as the opponent’s services are likely to be offered through gyms, fitness centres, sports clubs and leisure centres, while the above services are likely to be offered through specialised training facilities, although I do consider that some health and wellness training services, such as nutrition training, may be offered through gyms and leisure centres. There is no competition or complementarity. Overall, I consider the above services to have a medium level of similarity to the opponent’s ‘sports training services’.

Average consumer and the purchasing act

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

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

- (a) Consumers who are ill-informed or careless, or consumers with specialised knowledge or who are excessively careful are excluded from consideration;
- (b) The average consumer provides a standard which enables the courts to strike a balance between the competing interests involved, such as trade mark owners, their competitors and consumers;
- (c) The average consumer is neither a single hypothetical person nor a mathematical average; assessment from the perspective of the average consumer does not involve a statistical test. There is no single meaning rule and if, having regard to the perceptions and expectations of the average consumer, the court considers that a significant proportion of the relevant public is likely to be confused, a finding of infringement may properly be made;
- (d) Assessment from the perspective of the average consumer is intended to facilitate adjudication of trade mark disputes by providing an objective criterion, by promoting consistency of assessment and by enabling courts and tribunals to determine such issues so far as possible without the need for evidence;
- (e) The average consumer's level of attention varies according to the category of goods or services in question; and

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

27. The goods at issue will be purchased by members of the general public. The goods are likely to be purchased in-person at supermarkets and convenience stores. As such, visual considerations will dominate, although I do not discount aural considerations as advice may be sought from sales advisors. The goods will be purchased on a fairly regular basis. Consideration will be given to price and quality of the goods. Overall, I consider that a low to medium level of attention will be paid during the purchasing process.

28. The services at issue will also be purchased by members of the general public. The services are likely to be purchased online, over the phone or in-person at sports facilities, adult education centres and life coaching facilities. I consider that both visual and aural considerations will play a role in the purchasing process. Consideration will be given to suitability, price and quality of the services. Overall, I consider that a medium level of attention will be paid during the purchasing process.

Comparison of marks

29. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

“.....it is necessary to ascertain, in each individual case, the overall impression made on the target public by the sign for which registration is sought, by means of, inter alia, an analysis of the components of a sign and of their relative weight in the perception of the target public, and then, in the light of that overall

impression and all factors relevant to the circumstances of the case, to assess the likelihood of confusion.”

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

31. The respective trade marks are shown below:

The opponent’s earlier marks	The applicant’s contested mark
1. HYPE CBD <i>The opponent’s earlier ‘894 registration</i>	INNER HYPE
2. HYPE SPORTS <i>The opponent’s earlier ‘805 registration</i>	
3. HYPE STUDIOS <i>The opponent’s earlier ‘311 registration</i>	

Overall impression

32. The opponent’s earlier ‘894 registration is a word-only mark consisting of the two words HYPE and CBD. The opponent’s earlier ‘805 registration is a word-only mark consisting of the two words HYPE and SPORTS. The opponent’s earlier ‘311 registration is a word-only mark consisting of the two words HYPE and STUDIOS.

33. In its statement of grounds, the opponent states that the second words of these marks, CBD, SPORTS and STUDIOS, are descriptive of the nature of the goods and services. I consider that these words are at least allusive of the goods and services. I consider that the consumer is likely to conclude that the drinks sold under the first two marks either contain cannabidiol or are for use during sports, and that the services offered under the third mark are offered in studios. The first word, HYPE, therefore, plays a larger role in all of the earlier marks.

34. The applicant's mark is a word-only mark consisting of the two words INNER and HYPE. These words hang together. As a result, both words play a significant role in the overall impression of the mark, with neither having distinctive significance.

Visual comparison

35. Each of the marks overlap visually in the use of the word HYPE. However, this word is placed at the beginning of the opponent's marks and at the end of the contested mark, causing a point of visual difference.

36. The marks differ visually where the opponent's marks have the second words CBD, SPORTS and STUDIOS, and the contested mark has the first word INNER.

37. The beginning of marks tend to have more impact than the end.³ As a result, the consumer's attention is likely to be directed to the first word of each mark, which differ.

38. Overall, I consider the marks to have a low to medium similarity.

Aural comparison

39. The marks overlap aurally in the pronunciation of the word HYPE, although I note that this is at the beginning of the opponent's marks and at the end of the contested mark, leading to an aural difference.

40. The marks differ aurally where the opponent's marks' second words that have no aural overlap with the contested mark's first word.

41. Overall, I consider the marks to have a low to medium aural similarity.

Conceptual comparison

42. All of the marks contain the word HYPE, which will be understood to refer to substantial promotion, publicity or excitement relating to something.

43. The contested mark further consists of the word INNER placed before HYPE. The placement of the words leads the consumer to understand INNER as an adjective.

³ *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02

The contested mark as a whole hangs together and will be understood to relate to an individual's internal excitement or motivation.

44. The opponent's earlier '894 registration further consists of the term CBD. This will be understood by the majority of consumers to relate to cannabidiol. The mark as a whole will therefore be understood to relate to the concept of excitement or publicity connected with a CBD product.

45. The opponent's earlier '805 registration further consists of the word SPORTS. The mark as a whole will therefore be understood to relate to the concept of excitement or publicity connected with sports.

46. The opponent's earlier '311 registration further consists of the word STUDIOS. The mark as a whole will therefore be understood to relate to the concept of excitement or publicity connected with a studio location.

47. Overall, considering the conceptual overlap only in the word HYPE, and that the words of the contested mark hang together, I find the contested mark to have a low conceptual similarity to all of the earlier marks.

Distinctive character of the earlier trade mark

48. In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*, Case C-342/97 the CJEU stated that:

“22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *WindsurfingChiemsee v Huber and Attenberger* [1999] ECR I-0000, paragraph 49).

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not

contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51)."

49. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods, to those with high inherent distinctive character, such as invented words which have no allusive qualities. The distinctiveness of a mark can be enhanced by virtue of the use that has been made of it. As I have no evidence of the use of the mark, I have only the inherent distinctiveness of the mark to consider.

50. The opponent's earlier marks consist of the word HYPE followed by CBD, SPORTS or STUDIOS. As noted above, the second word of each mark could be seen as allusive of the goods and services offered under each mark. As dictionary words that are allusive, although not directly descriptive, I consider that all three of the opponent's earlier marks have a medium level of inherent distinctiveness.

GLOBAL ASSESSMENT – Conclusions on Likelihood of Confusion

51. There is no scientific formula to apply in determining whether there is a likelihood of confusion; rather, it is a global assessment where a number of factors need to be borne in mind. The first is the interdependency principle, i.e., a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective goods (or services) and vice versa (*Canon* at [17]). It is necessary to keep in mind the distinctive character of the opponent's trade mark, the average consumer of the goods and the nature of the purchasing act. In doing so, I must be alive to the fact that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them that they have retained in their mind (*Lloyd Schuhfabrik* at [26]).

52. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other, while indirect confusion is where the average consumer realises the marks are not the same but puts the similarity that exists between the marks and the goods down to the responsible undertakings being the same or related.

53. Earlier in this decision, I found the goods and many of the services to be identical, with the remaining services having a medium similarity. I found the marks to have a low to medium level of visual and aural similarity. I found the marks to have a low level of conceptual similarity. I found the earlier marks to possess a medium level of distinctive character. I identified the average consumer to be members of the general public. I found that these consumers would apply a low to medium level of attention when purchasing the goods at issue, which will be selected primarily by visual means, with aural considerations playing a smaller role. I found that the consumers would apply a medium level of attention when purchasing the services at issue, which will be selected by both visual and aural means.

54. Considering direct confusion, I note the visual and aural dissimilarities between the marks and remind myself that the beginnings of marks tend to have more impact.⁴ I also note the low conceptual similarity between the marks. I do not consider that the average consumer would overlook the first element of the contested mark, INNER. I therefore do not find direct confusion between the contested mark and any of the opponent's earlier marks.

55. I will proceed to consider whether there is a likelihood of indirect confusion, whilst reminding myself that, as James Mellor QC sitting as the Appointed Person pointed out in *Cheeky Italian Ltd v Sutaria* (O/219/16) at [16], "a finding of a likelihood of indirect confusion is not a consolation prize for those who fail to establish a likelihood of direct confusion".

56. In *L.A. Sugar Limited v By Back Beat Inc*, BL O/375/10, Mr Iain Purvis Q.C., as the Appointed Person, explained that:

⁴ *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02

“16. Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different from the earlier mark. It therefore requires a mental process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: ‘The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark’.

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

- (a) where the common element is so strikingly distinctive (either inherently or through use) that the average consumer would assume that no-one else but the brand owner would be using it in a trade mark at all. This may apply even where the other elements of the later mark are quite distinctive in their own right (‘26 RED TESCO’ would no doubt be such a case).
- (b) where the later mark simply adds a non-distinctive element to the earlier mark, of the kind which one would expect to find in a sub-brand or brand extension (terms such as ‘LITE’, ‘EXPRESS’, ‘WORLDWIDE’, ‘MINI’ etc.).
- (c) where the earlier mark comprises a number of elements, and a change of one element appears entirely logical and consistent with a brand extension (‘FAT FACE’ to ‘BRAT FACE’ for example).”

57. While the above examples in *L.A. Sugar* are noted, they are not intended to be treated as an exhaustive list of the only instances in which indirect confusion occurs.

58. Earlier I found that the words CBD, SPORTS and STUDIOS in the earlier marks are allusive of the goods and services and, as such, the word HYPE plays a larger role in all three marks. I found the earlier marks to have a medium distinctive character. I found that the two words of the contested mark, INNER and HYPE, hang together and play an equal role in the mark. I do not consider either word to have distinctive significance independently of the whole.

59. I consider that a consumer who is aware of the opponent's earlier marks may note the use of HYPE in the earlier marks and the contested mark. However, I do not consider the word HYPE to be so distinctive that the consumer would assume that no one else other than the opponent would be using it in a trade mark. Additionally, as noted above, the words INNER HYPE hang together and neither word has distinctive significance independently of the whole, so I particularly do not consider that consumers would make that assumption in this context. Additionally, the low conceptual similarity between the marks would lead consumers away from any confusion between the marks.

60. I consider that a consumer who is aware of the opponent's earlier marks may note the use of HYPE the marks and in the contested mark. However, I do not see any logical reason for the consumer to conclude that the INNER HYPE mark is another brand of the owner of the earlier marks, or a brand extension. I find it likely that any consumers noticing the use of HYPE in the opponent's earlier marks and the contested mark would assume that the marks represented goods or services deriving from two different entities and simply put the use of HYPE (if noticed) down to coincidence.

61. I therefore do not consider there to be a likelihood of indirect confusion between the parties' marks for any of the contested goods or services.

Final Remarks

62. The opposition has been unsuccessful and, subject to any successful appeal, the contested mark will proceed to registration in the UK.

COSTS

63. The applicant has achieved success in these proceedings and is therefore entitled to a contribution towards its costs. However, the applicant is not professionally represented and did not submit a Tribunal Cost Pro Forma. I therefore award no costs in these proceedings.

Dated this 22nd day of July 2026

K HAZLEBACH

For the Registrar