O/0669/25

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. 3952844

IN THE NAME OF TIGER CLAW TECHNOLOGY CO., LIMITED

TO REGISTER THE FOLLOWING TRADE MARK:

HALOVAPE

IN CLASSES 10, 21, 34 & 35

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NO. 445750

BY

GOWER ENTERPRISES LIMITED

Background and pleadings

1. Tiger Claw Technology Co., Limited ("the applicant") applied to register the trade mark 'HALOVAPE' (application no: UK00003952844) in the UK on 04 September 2023. It was accepted and published in the Trade Marks Journal on 17 November 2023 in respect of the following goods and services:

> Class 10 – Vaporizers for medical purposes; Hot air therapeutic apparatus.
>
> Class 21 – Fragrance oil bowls; domestic appliances; Aromatic oil diffusers, other than reed diffusers, electric and non-electric; Incense burners; Deodorising apparatus for personal use; Hand-operated grinders; Cosmetic utensils.
>
> Class 34 – Tobacco and tobacco products (including substitutes); Personal vaporisers and electronic cigarettes, and flavourings and solutions therefor; Matches.
>
> Class 35 - Retailing and wholesaling, including via the internet, in the fields of vaporizers for medical purposes, therapeutic hot-air apparatus, tobacco and tobacco products, including tobacco substitutes, vaporizers for personal use and electronic cigarettes, and flavorings and solutions therefor, matches, smokers' articles.

2. On 08 February 2024, Gower Enterprises Limited ("the opponent") partially opposed the trade mark application on the basis of Section 5(2)(b) of the Trade Marks Act 1994 ("the Act") as against all the goods/services in classes 10, 34 and 35 and some of the goods in class 21[1]. For the purposes of this opposition, it relies upon its earlier UK

[1] Within the opponent's submissions in lieu, dated 19 November 2024, it confirmed that it was withdrawing its opposition to the applicant's Class 21 goods "fragrance oil bowls; domestic appliances; aromatic oil diffusers, other than reed diffusers, electric and non-electric; incense burners; deodorising apparatus for personal use; cosmetic utensils". However, the opposition is maintained in respect of "hand-operated grinders" in Class 21 as well as those goods and services in Classes 10, 34 and 35 respectively. I will, therefore, only deal with the terms that are left within this decision. I note that the opponent still considers there is overlap between the goods and services such that the opposition must continue.

Trade Mark ‘Halo’ (UKTM No: UK00003532463) filed on 11 September 2020 and registered on 8 January 2021. The following goods and services are relied upon:

> Class 5 – Tobacco free cigarettes for medical purposes; vaping devices for medical purposes; electronic cigarettes for medical purposes; imitation cigarettes known as ‘cigalikes’; imitation cigarette (including “cigalike”) kits; parts and fittings for all the aforementioned; all the aforementioned for medical purposes.
>
> Class 9 – Electronic cigarette batteries; mods and box mods, being batteries for electronic cigarettes with variable voltage and/or wattage controls; E-cigarette kits consisting of a battery, accessories and a charger; chargers for electronic cigarettes; USB chargers for electronic cigarettes; portable charging cases for electronic cigarettes; chargers for vaporizers; accessories for electronic cigarettes and vaporizers, namely, vaporizer batteries, chargers for vaporizers, USB chargers for vaporizers and portable charging cases for vaporizers; all the aforementioned sold individually or in kit form; parts and fittings for all the aforementioned.
>
> Class 34 - Cigarettes containing tobacco substitutes not for medical purposes; articles for smokers; Electronic cigarettes; vaporizers; parts for electronic cigarettes and vaporizers, including cartridges, refill cartridges, atomizers, cartomizers, clearomizers, pods, tanks, coils and heating elements for electronic cigarettes, and cases; electronic cigarette and vaporizer refill cartridges sold empty (including tanks, clearomisers, pods, cartomizers); electronic cigarette kits including ‘cigalike’ kits, tank kits, pen kits, pod kits, box mods, pod mods all consisting of a battery, a vaporizer mechanism, a charger and either a pre-filled or refillable tank, cartridge or pod; electronic cigarette and vaporizer cartridges; electronic cigarette and vaporizer cartridges containing nicotine; electronic cigarette and vaporizer cartridges containing propylene glycol, with or without nicotine and/or other flavours; electronic cigarette and vaporizer cartridges containing vegetable glycerin, with or without nicotine and/or other flavours; electronic cigarette and vaporizer cartridges containing vegetable glycerin and propylene glycol in different ratios, with or without nicotine and/or other flavours electronic cigarette and vaporizer cartridges

containing flavorings in liquid form; electronic cigarette and vaporizer filters; electronic cigarette and vaporizer cases; cigarette boxes; mouthpieces for cigarette holders; electronic cigarette liquid (also known as ‘e-liquid’, ‘vape liquid’, ‘vape juice’ and ‘e-juice’) usually comprised of propylene glycol and/or vegetable glycerin with flavorings in liquid form used to refill electronic cigarette cartridges or clearomisers/clearomizers or tanks; Electronic cigarette liquid usually comprised of propylene glycol and/or vegetable glycerin with flavorings in liquid form used to refill electronic cigarette cartridges or clearomisers/clearomizers or tanks; flavorings in liquid form used to refill electronic cigarette cartridges; flavourings in concentrated form for adding to electronic cigarette liquid (e-liquid); electronic cigarette liquid containing nicotine in salt form (also known as ‘nicotine salts’ or ‘nic salts’); electronic cigarette liquid (e-liquid) containing extracts or concentrates of cannabidiol (known as CBD e-liquid) or other extracts of cannabis and/or hemp plants (known as cannabis e-liquid); concentrated nicotine in liquid form (often known as ‘nicotine shots’, ‘nic shots’ and/or nicotine boosters’) for adding to electronic cigarette liquid with or without other flavoring agents; cartridges sold containing propylene glycol and/or vegetable glycerin with or without flavorings in liquid form for electronic cigarettes; accessories for electronic cigarettes and vaporizers, namely, mouthpieces for vaporizer holders, portable carrying cases for electronic cigarettes and vaporizers incorporating a charger, vaporizer liquid (e-liquid) comprised of flavourings in liquid form used to refill vaporizer cartridges, cartridges sold containing flavourings in liquid form for vaporizers, flavourings in liquid form used to refill vaporizer cartridges; holders for electronic cigarettes; electronic cigarette cleaners; tanks, being containers for electronic cigarette liquid; all the aforementioned sold individually or in kit form; parts, fittings and accessories for all the aforementioned.

3. Under section 5(2)(b) of the Act, the opponent claims that there is a likelihood of confusion on the basis that the marks are similar, and the goods/services are either identical or highly similar leading to a likelihood of confusion, including a likelihood of association, and for those goods and services which it opposes, that the contested mark should be refused registration.

4. The applicant filed a counterstatement submitting as follows:

> "The opposing party based their line of argument on the assumption that the component "halo" in "halovape" means "a bright circle of light around or above something". While this may be true for the opponent, my client uses "halo" as the short form for the word "halogen" and thus as an allusion to the mode of operation of his vaping devices. The vaping devices work with a halogen lamp for heating and throughout the process agents can be extracted, so that the vaporizers are mainly used to enhance health and well-being.
>
> Accordingly, the component "halo" in my client's trade mark is merely a hint for the functionality of the vaporizers and does not create the same associations as the opponent's trade mark "halo". The trade marks "halo" and "halovape" are distinguishable.
>
> Furthermore, the opposition is directed at all the goods and services covered by my client's trade mark. The trade marks are protected in different classes, the only concordance is the class 34. Especially the protected goods within class 21 "fragrance oil bowls; domestic appliances; aromatic oil diffusers, other than reed diffusers, electric and non-electric; incense burners; deodorising apparatus for personal use; Hand-operated grinders; cosmetic utensils" are completely unrelated to those goods covered by the opposing trade mark. Even if one saw a likelihood of confusion between the terms "halo" and "halovape" the only concordance in the protected goods and services would lay within class 34. The opponent has no claim to a full rejection of my client's trade mark comprising all goods and services".

5. In accordance with section 6 of the Act, the mark relied upon by the opponent is considered an earlier mark. The mark had not been registered for five years as at the date of application for the contested mark and so, in accordance with section 6A of the Act, it is not subject to proof of use; the opponent may rely upon all the goods/services of its registration as claimed.

Representation

6. The opponent is represented by Burges Salmon LLP. The applicant is represented by Christoph Friedrich Jahn. Neither party requested a hearing, but the opponent filed written submissions in lieu, dated 19 November 2024. These submissions will not be summarised but will be referred to as and where appropriate during this decision. This decision is taken following a careful perusal of the papers.

Relevance of EU LAW

7. 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.

Decision

Section 5(2)(b)

8. Section 5(2)(b) of the Act is as follows:

> "5(2) A trade mark shall not be registered if because-
>
> (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".

9. Section 5A of the Act states as follows:

> "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."

Relevant law

10. The following principles are gleaned from the decisions of the Court of Justice of the European Union ("CJEU") in *Sabel BV v Puma AG*, Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, *Matratzen Concord GmbH v OHIM*, Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C120/04, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P and *Bimbo SA v OHIM*, Case C-591/12P.

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

11. The competing goods and services are shown in the table below:

The earlier mark	**The contested mark**
Class 5 – Tobacco free cigarettes for medical purposes; vaping devices for medical purposes; electronic cigarettes for medical purposes; imitation cigarettes known as ‘cigalikes’; imitation cigarette (including “cigalike”) kits; parts and fittings for all the aforementioned; all	

the aforementioned for medical purposes.	
Class 9 – Electronic cigarette batteries; mods and box mods, being batteries for electronic cigarettes with variable voltage and/or wattage controls; E-cigarette kits consisting of a battery, accessories and a charger; chargers for electronic cigarettes; USB chargers for electronic cigarettes; portable charging cases for electronic cigarettes; chargers for vaporizers; accessories for electronic cigarettes and vaporizers, namely, vaporizer batteries, chargers for vaporizers, USB chargers for vaporizers and portable charging cases for vaporizers; all the aforementioned sold individually or in kit form; parts and fittings for all the aforementioned.	
	Class 10 – Vaporizers for medical purposes; Hot air therapeutic apparatus.
	Class 21 - Hand-operated grinders
Class 34 - Cigarettes containing tobacco substitutes not for medical purposes; articles for smokers; Electronic cigarettes; vaporizers; parts for electronic cigarettes and vaporizers, including cartridges, refill cartridges, atomizers, cartomizers, clearomizers, pods, tanks, coils and heating elements for electronic cigarettes, and cases;	Class 34 – Tobacco and tobacco products (including substitutes); Personal vaporisers and electronic cigarettes, and flavourings and solutions therefor; Matches.

electronic cigarette and vaporizer refill cartridges sold empty (including tanks, clearomisers, pods, cartomizers); electronic cigarette kits including ‘cigalike’ kits, tank kits, pen kits, pod kits, box mods, pod mods all consisting of a battery, a vaporizer mechanism, a charger and either a pre-filled or refillable tank, cartridge or pod; electronic cigarette and vaporizer cartridges; electronic cigarette and vaporizer cartridges containing nicotine; electronic cigarette and vaporizer cartridges containing propylene glycol, with or without nicotine and/or other flavours; electronic cigarette and vaporizer cartridges containing vegetable glycerin, with or without nicotine and/or other flavours; electronic cigarette and vaporizer cartridges containing vegetable glycerin and propylene glycol in different ratios, with or without nicotine and/or other flavours electronic cigarette and vaporizer cartridges containing flavorings in liquid form; electronic cigarette and vaporizer filters; electronic cigarette and vaporizer cases; cigarette boxes; mouthpieces for cigarette holders; electronic cigarette liquid (also known as ‘e-liquid’, ‘vape liquid’, ‘vape juice’ and ‘e-juice’) usually comprised of propylene glycol and/or vegetable glycerin with flavorings in liquid form	

used to refill electronic cigarette cartridges or clearomisers/clearomizers or tanks; Electronic cigarette liquid usually comprised of propylene glycol and/or vegetable glycerin with flavorings in liquid form used to refill electronic cigarette cartridges or clearomisers/clearomizers or tanks; flavorings in liquid form used to refill electronic cigarette cartridges; flavourings in concentrated form for adding to electronic cigarette liquid (e-liquid); electronic cigarette liquid containing nicotine in salt form (also known as 'nicotine salts' or 'nic salts'); electronic cigarette liquid (e-liquid) containing extracts or concentrates of cannabidiol (known as CBD e-liquid) or other extracts of cannabis and/or hemp plants (known as cannabis e-liquid); concentrated nicotine in liquid form (often known as 'nicotine shots', 'nic shots' and/or nicotine boosters') for adding to electronic cigarette liquid with or without other flavoring agents; cartridges sold containing propylene glycol and/or vegetable glycerin with or without flavorings in liquid form for electronic cigarettes; accessories for electronic cigarettes and vaporizers, namely, mouthpieces for vaporizer holders, portable carrying cases for electronic cigarettes and vaporizers	

incorporating a charger, vaporizer liquid (e-liquid) comprised of flavourings in liquid form used to refill vaporizer cartridges, cartridges sold containing flavourings in liquid form for vaporizers, flavourings in liquid form used to refill vaporizer cartridges; holders for electronic cigarettes; electronic cigarette cleaners; tanks, being containers for electronic cigarette liquid; all the aforementioned sold individually or in kit form; parts, fittings and accessories for all the aforementioned	
	Class 35 - Retailing and wholesaling, including via the internet, in the fields of vaporizers for medical purposes, therapeutic hot-air apparatus, tobacco and tobacco products, including tobacco substitutes, vaporizers for personal use and electronic cigarettes, and flavorings and solutions therefor, matches, smokers' articles.

12. The opponent submits that:

> "4.4 In its Counterstatement filed on the 23 April 2024, the Applicant asserted that as the Applicant's Goods and Services are in differing classes to the Opponent's Goods, they are dissimilar but admitted "*...concordance is in Class 34*". This is denied and the Opponent maintains that the applied for goods and services in Classes 10, 34 and 35, together with hand-operated grinders in Class 21 are similar to the Opponent's Goods and Services.

4.5 Firstly, the class within which certain goods and services are protected is not determinate of similarity or dissimilarity with other goods or services in the same, or different classes. The Opponent refers to section 60A of the UK Trade Marks Act and judgment of the CJEU in Canon, (Case C-39/97, paragraph 23) which confirms that in assessing similarity, a range of factors must be considered including, inter alia, the nature and purpose of the goods or services, the distribution channels, the sales outlets, the producers, the method of use and whether they are in competition with each other or complementary to each other.

4.6 Goods are identical when the same terms or synonyms are used in the specifications of goods of the Opposed Mark and in the Earlier Mark(s). It is settled case law that goods will also be considered identical where the list of goods of the Earlier Mark(s) includes a general indication or a broad category that covers the goods of the Opposed Mark in their entirety (Case T-522/10, *Hell*, paragraph 36). Conversely, goods will also be considered identical where the list of goods of the Opposed Mark includes a general indication or a broad category that covers the goods of the Earlier Mark(s) in their entirety (Case T-133/05, *Pam-Pim's Baby-Prop*, paragraph 29)."

13. The applicant submits that "The trade marks are protected in different classes, the only concordance is in class 34…even if one saw a likelihood of confusion between the terms "halo" and "halovape" the only concordance in the protected goods and services would lay within class 34. The opponent has no claim to a full rejection of my client's trade mark comprising all goods and services".

14. Section 60A of the Act provides:

"(1) For the purpose of this Act goods and services-

(a) are not to be regarded as being similar to each other on the ground that they appear in the same class under the Nice Classification.

(b) are not to be regarded as being dissimilar from each other on the ground that they appear in different classes under the Nice Classification.

(2) In subsection (1), the "Nice Classification" means the system of classification under the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, which was last amended on 28 September 1979."

15. When making the comparison, all relevant factors relating to the goods and services in the specifications should be taken into account, as per *Canon*, where the CJEU stated at paragraph 23 of its judgement:

"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. In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods. In *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM),* Case T-325/06, the GC stated that "complementary" means:

> "...there is a close connection between them, in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods lies with the same undertaking."

19. In *Sanco SA v OHIM,* Case T-249/11, the GC indicated that goods and services may be regarded as 'complementary' and therefore similar to a degree in circumstances where the nature and purpose of the respective goods and services are very different, i.e. *chicken* against *transport services for chickens*. The purpose of examining whether there is a complementary relationship between goods/services is to assess whether the relevant public are liable to believe that responsibility for the

goods/services lies with the same undertaking or with economically connected undertakings. As Mr Daniel Alexander Q.C. noted as the Appointed Person in *Sandra Amalia Mary Elliot v LRC Holdings Limited* BL O/255/13*:*

> "It may well be the case that wine glasses are almost always used with wine – and are, on any normal view, complementary in that sense - but it does not follow that wine and glassware are similar goods for trade mark purposes."

Whilst on the other hand:

> "…….it is neither necessary nor sufficient for a finding of similarity that the goods in question must be used together or that they are sold together."

20. I bear in mind that it is permissible to group goods together for the purposes of the assessment[2].

Class 10

Vaporizers for medical purposes;

21. I have no submissions from the applicant in respect of this term. The opponent submits as follows:

> "The Applicant's "vaporizers for medical purposes" are self-evidently identical or at least highly similar to the Opponent's Class 34 goods "vaporizers" and Class 5 goods "vaping devices for medical purposes;" as they have the same nature, a vaporizer being a device that puts out a substance in the form of a vapor, and vaping devices are devices that people use to inhale a substance in the form of a vapour. They also share the same purpose creating a vapour for inhalation for medical or other purposes, and accordingly will have a similar method of use."

[2] *Separode Trade Mark* O/399/10

22. I refer to the decision of Ms Anna Carboni, as the Appointed Person, in *Procter and Gamble Company v Simon Grogan*[3] in which Ms Carboni observed:

> "31. …The International Classification system is used to classify goods and services for the purposes of registration of United Kingdom trade marks pursuant to section 34(1) of the Act and rule 7(2) of the Trade Marks Rules 2000 (as amended).
>
> 32. The International Classification system also applies to Community trade marks. Rule 2(4) of Commission Regulation 2868/95/EC implementing the Regulation on the Community trade mark (40/94) states as follows:
>
> > (4) The classification of goods and services shall serve exclusively administrative purposes. Therefore, goods and services may not be regarded as being similar to each other on the ground that they appear in the same class under the Nice Classification, and goods and services may not be regarded as being dissimilar from each other on the ground that they appear in different classes under the Nice Classification.
>
> 33. It is thus made plain under the Community trade mark system that class numbers are irrelevant to the question of similarity of goods and services.
>
> 34. There is no similarly plain provision in the Act or the Directive. The Court of Appeal has held that, although the purpose of classifying goods and services is primarily administrative, that does not mean that the class numbers in an application have to be totally ignored in deciding, as a matter of construction, what is covered by the specification: *Altecnic Ltd's Trade Mark Application (CAREMIX)* [2001] EWCA Civ 1928, [2002] RPC 639. But neither the Court of Appeal, nor the ECJ, nor any other court or tribunal in the United Kingdom, has gone so far as to state that class numbers are determinative of the question of

[3] BL O/176/08

similarity of goods in the case of national trade marks. On the contrary, they are frequently ignored."

23. The different Class numbers do not mean that the goods are not similar, or even that they are not identical. In a case such as this where the description of the goods is specific and clear, the Class in which the goods were registered has no role to play in the interpretation of what the goods are. It follows that the Class number of the earlier mark is irrelevant when it comes to determining if the goods are identical or similar to those covered by the contested mark.

24. Given that the respective specifications include the terms vaping devices and vaporizers both for medical purposes on its face they appear to be identical goods. However, my understanding of the goods in Class 5 is that they relate to preparations and pharmaceuticals[4] but would include such things as pre-filled syringes for medical purpose and inhalers prefilled with pharmaceutical preparations and therefore include vaping devices which are prefilled. Whereas the goods classified in Class 10 relate to the devices/apparatus themselves (unfilled). Consequently, I consider that the devices in this Class could have a wider use for medical purposes than those in Class 5, and therefore I do not find them identical. But I agree with the opponent's submissions that the respective goods are similar. The goods have the same nature, purpose and method of use, I consider that the users and trade channels will be the same and there will be competition because a consumer may choose to purchase the cartridges and vaporizers separately or purchase the vaping devices pre-filled. I therefore find the goods to be similar to a high degree.

Hot air therapeutic apparatus.

25. The opponent submits:

> "The Applicant's goods "hot air therapeutic apparatus" are similar to the Opponent's "vaporizer" goods in Class 34. A vaporizer is a device used to vaporise liquids using heat to turn the liquids into a gas form to be breathed in.

[4] In accordance with the explanatory notes accompanying the nice classification system.

> These goods are therefore similar in nature and can be used therapeutically and so share a similar purpose and method of use."

26. The applicant has not made any submissions regarding the purpose or use of these goods. Given the applicant's other terms within Class 10 include *vaporizers for medical purposes*, I consider that *hot air therapeutic apparatus* is likely to include goods such as pharmacy vapes or e-cigarettes which are medical devices that simulate the experience of smoking, given that they are therapeutic in nature. Class 5 of the opponent's specification includes *vaping devices for medical purposes* which would be used for the same, or a highly similar purpose to the types of goods that I consider the applicant's term would cover, such as those noted above, as they would all be used for inhaling vapour for medical or therapeutic purposes. I consider that the method of use will be the same or very similar. They will also share users and channels of trade. I also find that there is likely to be competition between these goods. Therefore, I find them similar to a high degree.

Class 21

Hand-operated grinders

27. The opponent submits:

> "The Applicant's goods **"**hand-operated grinders" are identical or at least similar and complementary to the Opponent's Class 34 goods "articles for smokers" as the Opponent's goods would include hand operated tobacco grinders, which are used to grind down tobacco so that it has a better texture for rolling cigarettes. Theses goods are therefore similar or identical as the Applicant's goods are encompassed in the broad term "articles for smokers", would have the same end consumers, and will be sold in the same retail outlets."

28. I agree that a hand-operated grinder could be used in the way that the opponent has described for the purpose of improving the quality of tobacco. The applicant has made no submissions regarding the term, and therefore I will apply its ordinary meaning as per *Canon*. The goods in Class 21 include mainly small, hand-operated utensils and apparatus for household and kitchen use, as well as cosmetic utensils. I

consider that a hand-operated grinder is proper to this class, whereas Class 34 goods include mainly tobacco and articles used for smoking, as well as certain accessories and containers related to their use. I refer to *Procter and Gamble Company v Simon Grogan* and my findings in para 22 and 23 of this decision and note the fact that because goods/services are in different classes does not mean that they cannot be found to be similar. The term *articles for smokers,* within Class 34 of the opponent's specification, is broad and will cover a number of smoking related accessories such as pipes and rolling papers. I agree with the opponent's submissions regarding the purpose and method of use of a hand-operated grinder, and I therefore find that there will be overlap with this and the opponent's term as the items will all be used to facilitate, aid, or as accessories to smoking. I therefore consider that there will be similarity in purpose, although the applicant's goods which contain no limitation that their use is solely related to tobacco may have a wider use of also grinding things such as food stuffs for cooking. I consider that the applicant's goods are likely to be used in combination with the opponent's goods[5], for example, the applicant's goods may be used to grind tobacco and the opponent's goods may include the papers for roll up cigarettes. I consider that the end users and trade channels will overlap as it is foreseeable that shops which stock articles for smoking will also stock hand-operated grinders. I therefore find the items to be similar to a medium degree.

Class 34

Tobacco and tobacco products (including substitutes);

29. I note that the applicant has conceded that there is "concordance" with its Class 34 goods and the opponent's Class 34 goods. The opponent's specification includes the term *cigarettes containing tobacco substitutes not for medical purposes*. I consider that the applicant's specification is wider than the opponent's in this instance, as it includes both tobacco products and tobacco substitutes. I therefore find that the applicant's term encompasses that of the opponent and is therefore identical on the principles outlined in *Meric.* If I am wrong about that, I find that the nature and purpose of the terms will be the same. I consider that there will be an overlap in both uses and

[5] As per *Everest Dairies*

users. Trade channels will overlap and there will also be a level of competition between them. I therefore find them similar to a high degree.

Personal vaporisers and electronic cigarettes, and flavourings and solutions therefor;

30. The opponent submits that the above is self-evidently identical with the goods in their specification. I note that the opponent's specification includes items such as *electronic cigarettes* and *vaporizers* as well as *vaporizer liquid (e-liquid) comprised of flavourings* in Class 34. I agree with the opponent that the applicant's terms are self-evidently identical with the terms within the opponent's specification.

Matches

31. The opponent submits:

> "The Applicant's goods "matches" are identical to the Opponent's Class 34 goods "articles for smokers" as matches are a customary and necessary article for people who smoke in order to light cigarettes."

Whilst I accept that matches can be used to light cigarettes, I do not consider that they fall under the term *articles for smokers,* which I believe consumers would consider to refer to items such as ashtrays and pipes, as matches have other uses such as lighting gas stoves and fires in fireplaces and not solely those in relation to smoking. Whilst I consider that the nature and specific purpose of matches is not solely to light cigarettes, I do consider that there is some overlap with the opponent's terms *tobacco free cigarettes for medical purposes* and *cigarettes containing tobacco substitutes not for medical purposes* which may include herbal cigarettes for example, as matches can be used to light these goods and therefore these goods can be used in combination with each other. I do not consider that the goods are complementary, in so far as they are not indispensable or important for the use of the other. As Ms Emma Himsworth stated, sitting as the Appointed Person in *Everest Dairies Limited v Everest Food Products Private Limited*[6], , "the question of whether goods are 'complementary' is to be distinguished from use in combination, where goods are merely used together, whether for choice or convenience". However, the goods can have the same end user

[6] [23] O/0107/23

and may coincide in distribution channels. I therefore find that these goods are similar to a low degree.

Class 35

Retailing and wholesaling, including via the internet, in the fields of vaporizers for medical purposes, therapeutic hot-air apparatus, tobacco and tobacco products, including tobacco substitutes, vaporizers for personal use and electronic cigarettes, and flavorings and solutions therefor, matches, smokers' articles.

32. In *Oakley, Inc v OHIM*, Case T-116/06, at paragraphs 46-57, the GC held that although retail services are different in nature, and method of use to goods, retail services for particular goods may be complementary to those goods, and distributed through the same trade channels, and therefore similar to a degree.

33. However, on the basis of the European courts' judgments in *Sanco SA v OHIM*, Case C-411/13P and *Assembled Investments (Proprietary) Ltd v. OHIM,* Case T-105/05*,* at paragraphs [30] to [35] of the judgment, upheld on appeal in *Waterford Wedgewood Plc v. Assembled Investments (Proprietary) Ltd* Case C-398/07P, Mr Hobbs concluded that:

> i) Goods and services are not similar on the basis that they are complementary if the complementarity between them is insufficiently pronounced that, from the consumer's point of view, they are unlikely to be offered by one and the same undertaking;
>
> ii) In making a comparison involving a mark registered for goods and a mark proposed to be registered for retail services (or vice versa), it is necessary to envisage the retail services normally associated with the opponent's goods and then to compare the opponent's goods with the retail services covered by the applicant's trade mark;
>
> iii) It is not permissible to treat a mark registered for 'retail services for goods X' as though the mark was registered for goods X;

iv) The General Court's findings in *Oakley* did not mean that goods could only be regarded as similar to retail services where the retail services related to exactly the same goods as those for which the other party's trade mark was registered (or proposed to be registered).

34. As highlighted in *Oakley* above, the GC held that although retail services are different in nature, purpose and method of use to goods, retail services for particular goods may be complementary to those goods, and distributed through the same trade channels, and therefore similar to a degree. Given that the applied for retail services relate to the same goods in other classes which I found to be similar, it stands to reason that the retail services of those same goods would also be similar. The goods and the services are indispensable to each other being complementary and overlap in trade channels and end consumers. It is recognised that consumers would consider that those entities responsible for producing the goods would be the same entity that brings the goods to market, whether physically in store, online, via mail order or wholesale. I find that the contested services in Class 35 are similar to a medium degree to the Opponent's goods in classes 5, 9 and 34 as aforementioned.

Average Consumer and the purchasing act

35. It is necessary for me to determine who the average consumer is for the respective parties' goods/services. I must then determine the manner in which the goods/services are likely to be selected by the average consumer. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited,* [2014] EWHC 439 (Ch), Birss J. (as he then was) described the average consumer in these terms:

> "60. The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The word "average" denotes that the person is typical. The term "average" does not denote some form of numerical mean, mode or median."

36. The average consumer of the respective goods/services will be the general public albeit that the goods/services include both cigarettes and vapes, and as such, they are likely to be directed at those over the age of 18. The goods/services will be selected on a relatively frequent basis and are relatively inexpensive. Consideration will be given to factors such as price, strength/tar content of the tobacco-based products, and the choice of flavours available and the nicotine strength of the liquid for electronic cigarettes. The products are likely to be purchased frequently and at a relatively low cost. Consequently, I consider that a medium degree of attention will be paid.

37. The goods/services at issue will be purchased through a range of channels including general retail shops, including newsagents, supermarkets and tobacconists, as well as specialist "vaping" suppliers, and via the internet. In large stores, tobacco-based products are hidden from view and are restricted to 'behind the counter' cabinets, where they will need to be requested by the consumer, whereas the consumer may view e-cigarettes on display for sale. For online sales, the consumer will select the goods/services having viewed an image displayed on a webpage. The selection process will be by a combination of both visual and aural means, with aural considerations featuring more highly when the goods/services are requested from behind the counter displays, or are selected following verbal advice from sales staff, as opposed to visually when purchased online. I therefore consider that both aural and visual considerations will play a role during the purchasing process.

Comparison of marks

38. 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."

39. 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.

40. The respective trade marks are shown below:

Earlier trade mark	Contested trade mark
Halo	HALOVAPE

41. The opponent submits:

"9.4 The element VAPE will be broadly understood as the noun/verb commonly used in connection with using vaporising and e- cigarette devices. The term in the context of the Applicant's Mark HALOVAPE, is therefore of weak distinctive character as it is descriptive of some the goods applied for, namely vaping and e-cigarette products and related accessories.

9.5 The element HALO has no meaning in connection with the goods and services in question. The Opponent notes the Applicant's assertions in its counterstatement that the term HALO is a reference to halogen and alludes to the mode of operation of his vaping devises. The Opponent submits that consumers would not readily make this connection as HALO is not a common shortening of HALOGEN and would attribute no meaning to the term without further education. As a result, the distinctive element for comparison is the HALO element of the Application."

42. The applicant submits:

> "The opposing party based their line of argument on the assumption that the component "halo" in "halovape" means "a bright circle of light around or above something". Whilst this may be true for the opponent, my client uses "halo" as the short form for the word "halogen" and thus as an allusion to the mode of operation of his vaping devices. The vaping devices work with a halogen lamp for heating and throughout the process agents can be extracted, so that the vaporizers are mainly used to enhance health and well-being".

Overall Impression

43. I note that both marks are word only marks and consist of 'Halo' and 'HALOVAPE' respectively. Both are presented in a plain typeface. There are no other elements to contribute to the overall impression of the earlier mark which lies in the word itself. Despite the contested mark being presented as one word, the average consumer will see the mark as being made up of two words HALO and VAPE. The word VAPE is descriptive or non-distinctive of the goods and services in question, and therefore plays a lesser role. The word HALO will therefore be the more dominant element.

Visual comparison

44. The opponent submits:

> "The Opponent's Mark HALO is wholly contained within the Applicant's mark **HALO**VAPE. In this case the first element of the Applicant's mark is HALO, which is identical to the Opponent's mark. Consequently, it is accepted that in general, the beginning of a sign significantly influences the general impression made by the mark...The Applicant's Mark is therefore highly visually similar to the Opponent's Mark".

The applicant has not made any submissions regarding the visual similarity of the marks.

45. A word trade mark protects the notional use of the word itself irrespective of font capitalisation or otherwise and therefore the difference in casing will have little impact on the assessment. The competing marks are similar to the extent that they share the identical word HALO, which makes up the whole of the earlier mark and the first

element of the contested mark. The difference in the marks is the use of VAPE in the contested mark which will be seen as descriptive or non-distinctive of the goods/services. As a general rule the beginning of a mark tends to have more impact, as per the matter of *El Corte Inglés, SA v OHIM*[7] and this element of the marks will be the consumer's focus when considering the marks. Weighing up the differences as against the similarities, I find there to be a high degree of visual similarity between the marks.

Aural comparison

46. The words in both marks are ordinary English dictionary words and they will be pronounced in the normal way. The opponent submits that "Aurally the marks only differ in the verbal element VAPE, HALO being the first part of both marks. Therefore, the signs are aurally similar to a high degree". The applicant has not made any submissions regarding the aural similarity of the marks.

47. The point of aural overlap lies with the word HALO, as this is the same in both marks, and will be pronounced identically. The second word in the contested mark is VAPE, which has one syllable. Whilst the opponent's mark is presented without a space, I consider that this will make minimal difference to the way that the words are articulated. There is no comparator in the earlier mark, and this will be a point of difference between the marks, however, I do not consider that much weight will be given to this element of the contested mark as it is descriptive / non-distinctive. Overall, I find the marks to be aurally similar to a high degree.

Conceptual comparison

48. For a conceptual message to be relevant it must be capable of immediate grasp by the average consumer, as highlighted in numerous judgments of the GC and the CJEU[8].

[7] Cases T-183/02 and T-184/02
[8] *Ruiz Picasso v OHIM* [2006] e.c.r.-I-643; [2006] E.T.M.R 29

49. The applicant submits that “my client uses “halo” as the short form for the word “halogen” and thus as an allusion to the mode of operation of his vaping devices. The devices work with a halogen lamp for heating”. The opponent submits:

> “As the Applicant Mark wholly contains the identical word HALO as the Opponent’s Mark, the marks are conceptually similar. The Opponent submits that consumers would most readily understand Halo to mean a bright circle of light around something. In its Counterstatement, the Applicant claims that the conceptual meaning that the applicant attributes to the “halo” element of HALOVAPE is a short form of the word Halogen which differs from the conceptual meaning the Opponent referred to in the Notice of Opposition namely that “halo” is likely to bring to mind, a bright circle of light around something. However, the Applicant’s understanding of the meaning of the halo element is irrelevant since the conceptual meaning of a mark is assessed from the point of view of the consumer. From that perspective, the first part of the Applicant’s mark and the Opponent’s Mark are identical. The second part of the Opponent’s mark VAPE will be understood as the inhale and exhale of vapours containing nicotine and flavouring using various devices. As the word element VAPE is directly descriptive of the majority of the goods and services in the Application (at least in Classes 10 and 34 and the related retail services in Class 35), this element is of weak distinctive character and plays a secondary role, with the distinct element being HALO. As a result, the marks are conceptually similar to a high degree.”

50. The word HALO has several meanings including “a ring of light around the head of a holy person” and “a bright circle of light around something”[9]. I do not consider that the average consumer would be aware that vaping devices work with a halogen lamp, as the applicant has contended within their submissions, and as there is no evidence in support of this, I find that the word HALO is likely to be understood as I have described above. In the context of the applied for mark, the average consumer will understand VAPE to be a form of e-cigarette and gives rise to a conceptual difference but not significantly so given that this element is descriptive or non-distinctive of the

[9] HALO | English meaning - Cambridge Dictionary

goods and services on offer. Overall, I find there to be a high degree of conceptual similarity between the marks.

Distinctive character of the earlier trade mark

51. 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)."

52. 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 or services, to those with high inherent distinctive character, such as invented words which have no allusive qualities. The opponent submits that their mark "consists of a word unrelated to the services (sic) for which it is registered, the

Opponent's mark is inherently distinctive to a normal degree". As the opponent has not filed any evidence I only have the inherent position to consider.

53. The opponent's mark consists of the word 'Halo' in a standard typeface. As I have said above, this is a dictionary word to the average consumer in the UK and the distinctiveness lies in the word itself. I believe that the mark is conceptually likely to be understood as either having angelic connotations, such as a ring of light around the head, or to be a bright circle of light around something. The mark is not descriptive of the goods and services for which it is registered, nor does it allude to any quality of the same. I consider the earlier mark as a whole to be inherently distinctive to a medium degree.

Conclusions on Likelihood of Confusion

54. 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/services down to the responsible undertakings being the same or related.

55. 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 and services and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the opponent's trade mark, the average consumer for the goods and services and the nature of the purchasing process. In doing so, I must be alive to the fact that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them that he has retained in his mind.

56. I have found as follows:

- The goods and services at issue range from being identical upon the principles outlined in *Meric* to being similar to a low degree;

- I have identified that the average consumer will be members of the general public who are over 18. They will select the goods and services by both aural and visual means;

- I have concluded that a medium degree of attention will be paid by members of the general public;

- The contested mark is visually similar to the earlier mark to a high degree;

- The contested mark is aurally similar to the earlier mark to a high degree;

- I have found the contested mark and the earlier mark to be conceptually similar to a high degree;

- I have found the earlier mark overall to be inherently distinctive to a medium degree;

57. I begin by considering a likelihood of direct confusion. The competing marks share the word HALO; however, the contested mark also includes the word VAPE, making the mark HALOVAPE. In this instance, I find HALO to be the dominant element of the applicant's mark, as the word VAPE is descriptive / non-distinctive of the goods and services on offer. Given that the consumer normally attaches more importance to the first word/element of a mark, the presence of the same word, HALO, which as I have noted is the dominant element in the contested mark gives rise to a strong visual, aural and conceptual similarity. Given this similarity and the fact that the goods/services range from being identical or similar, it is my view that consumers may mistake one mark for another (even for those goods that I found to be similar to a low degree). Taking all the above into account, and bearing in mind the principle of imperfect recollection, and that the marks will not be considered side by side, I consider that there exists a likelihood of direct confusion. In case I am wrong about that, I will move on to consider indirect confusion

58. 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:

"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)."

59. These three categories are not exhaustive; rather, they were intended to be illustrative of the general approach, as has been confirmed by the Court of Appeal[10]. I recognise that a finding of indirect confusion should not be made merely because the

[10] *Liverpool Gin Distillery and others v Sazerac Brands, LLC and others* [2021] EWCA Civ 1207

competing marks share a common element. The Court of Appeal has also emphasised that, where there is no direct confusion, there must be a “proper basis” for finding indirect confusion.

60. When assessing indirect confusion, I find that as a result of the common word, HALO, consumers will be confused between the two entities as this appears identically in each mark. When considering the differences within the marks, namely the inclusion of VAPE in the contested mark, which is descriptive / non-distinctive of the goods and services on offer, I find that HALO will be considered as the distinctive element of the mark. Therefore, I find that HALOVAPE is likely to be interpreted as a sub-brand or indicative of goods and services provided by the same, or a linked undertaking. I am satisfied that such is the high similarity between the marks visually, aurally and conceptually, that due to the interdependency principle, there would be a likelihood of confusion even for those goods and services that I found to be similar only to a low degree. As a result of this, I find a likelihood of indirect confusion.

Final Remarks

61. The opposition is successful. Therefore, subject to appeal, the application will be refused in relation to the following goods and services:

> Class 10 – Vaporizers for medical purposes; Hot air therapeutic apparatus.
>
> Class 21 – Hand-operated grinders;
>
> Class 34 – Tobacco and tobacco products (including substitutes); Personal vaporisers and electronic cigarettes, and flavourings and solutions therefor; Matches.
>
> Class 35 - Retailing and wholesaling, including via the internet, in the fields of vaporizers for medical purposes, therapeutic hot-air apparatus, tobacco and tobacco products, including tobacco substitutes, vaporizers for personal use and electronic cigarettes, and flavorings and solutions therefor, matches, smokers' articles.

62. However, given that there was no opposition raised, it will proceed to registration in relation to the following goods:

> Class 21 – Fragrance oil bowls; domestic appliances; Aromatic oil diffusers, other than reed diffusers, electric and non-electric; Incense burners; Deodorising apparatus for personal use; Cosmetic utensils.

Costs

63. The opponent has been successful and is entitled to a contribution towards its costs. Award of costs in proceedings are based upon the scale as set out in Tribunal Practice Note 1/2023. In the circumstances I award the opponent the sum of £700.00 as a contribution towards the cost of the proceedings. The sum is calculated as follows:

Filing a Notice of Opposition and considering the applicant's counter statement	£250
Drafting submissions in lieu	£350
Official fee	£100
Total:	**£700.00**

64. I therefore order Tiger Claw Technology Co., Limited to pay Gower Enterprises Limited the sum of £700.00. The above sum should be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings.

Dated this 22nd day of July 2025

L Bailey

For the Registrar