

O/0708/25

TRADE MARKS ACT 1994

IN THE MATTER OF UK TRADE MARK APPLICATION NUMBER 4032566

BY ADVANX PTE. LTD.
TO REGISTER THE FOLLOWING TRADE MARK:



IN CLASS 4

AND

IN THE OPPOSITION THERETO

UNDER NUMBER 448556

BY FYRON GROUP B.V.

BACKGROUND & PLEADINGS

1. On 29 March 2024, Advanx PTE. Ltd (“the applicant”) applied to register the trade mark shown on the cover page of this decision in the UK (“the contested mark”). The contested mark was published for opposition purposes in the Trade Marks Journal on 12 April 2024 in respect of the following goods:

Class 4: Charcoal [fuel]; Fuel; Charcoal briquettes; Lighter fuel; Lighter fluid; Hookah charcoal; Wood chips for smoking foods; Wood chips for use as fuel; Coal briquettes; Briquettes; Firewood; Solid fire starters; Solid fuels.

2. On 12 July 2024, the contested mark was opposed by Fyron Group B.V. (“the opponent”). The opposition is brought under Section 5(2)(b) of the Trade Marks Act 1994 (“the Act”).
3. The opponent relies upon the International Registration no. WO0000001675903 for the word FYRON (“the earlier mark”), and on the services listed in Annex 1 to this decision.
4. The earlier mark was registered on 18 March 2022 and, with effect from the same date, the opponent designated the UK as a territory in which it sought to protect its mark under the terms of the Protocol to the Madrid Agreement. Protection was granted on 22 December 2022, and the earlier mark claims a priority date of 10 December 2021 (based on a Benelux trade mark).
5. An earlier trade mark is defined in section 6 of the Act, the relevant parts of which state:

“(6)(1) In this Act an “earlier trade mark” means –
a registered trade mark or international trade mark (UK) which has a date of application for registration earlier than that of the trade mark in question, taking account (where appropriate) of the priorities claimed in respect of the trade marks.

6. The mark identified in paragraph 3 qualifies as an earlier trade mark under the above provisions. As the earlier mark had not completed its registration process more than five years before the relevant date, it is not subject to proof of use requirements. Consequently, the opponent may rely on all of the services highlighted in Annex 1 of this decision for the purposes of this opposition.
7. The opponent submits that the contested mark and the earlier mark are “visually, aurally and conceptually highly similar”, that the services of the earlier mark are identical to the goods of the contested mark, and, consequently, that this would “lead to a likelihood of confusion among the relevant consumers”.
8. The applicant filed a counterstatement denying the claims made against it. Specifically, the applicant submits that “when assessing the relevant factors for the assessment of the existence of similarities between trade marks, it simply cannot be concluded that consumers will be led to believe that the goods of the Applicant covered by the Opposed Application, and the services of the Opponent covered by the Opponent’s Registration originate from the same source, or provided [sic] by the same business, or associated entities.” The applicant has therefore requested that the opposition be dismissed, that the contested mark be allowed to proceed to registration, and that an award of costs be made in its favour.
9. The opponent is represented by Murgitroyd & Company Limited. The applicant is represented by Marks & Clerk LLP. In this case, neither party filed evidence. No hearing was requested, and only the opponent filed written submissions in lieu of a hearing. This decision is therefore taken following a careful consideration of the papers that have been filed by the parties, which will not be summarised but will be referred to as and where appropriate during this decision.
10. The provisions of the Act relied upon in these proceedings are assimilated law, as they are derived from EU law. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 (as amended by Schedule 2 of the Retained EU Law (Revocation and Reform) Act 2023) requires tribunals applying

assimilated law to follow assimilated EU case law. That is why this decision refers to decisions of the EU courts which predate the UK's withdrawal from the EU.

DECISION

Section 5(2)(b)

11. The opponent's opposition is based upon section 5(2)(b) of the Act which stipulates the following:

"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".

12. Section 5A of the Act stipulates that 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."

13. The following principles are gleaned from the decisions of the EU courts in *Sabel BV v Puma AG*,¹ *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc* ("Canon"),² *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.*,³ *Marca Mode CV v Adidas AG & Adidas Benelux BV*,⁴ *Matratzen Concord GmbH v Office for Harmonization in the Internal Market (Trade Marks and Designs)* ("OHIM"),⁵

¹ Case C-251/95

² Case C-39/97

³ Case C-342/97

⁴ Case C425/98

⁵ Case C-3/03

Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH,⁶ *Shaker di L. Laudato & C. Sas v OHIM*⁷ and *Bimbo SA v OHIM*⁸:

- 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 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;

⁶ Case C-120/04

⁷ Case C-334/05P

⁸ Case C-591/12P

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

Comparison of Goods

14. The full list of services relied upon by the opponent can be found in the Annex to this decision. I have listed only those services that I consider represent the opponent's best case in the table below. With that in mind, the competing goods and services are as follows:

The opponent's services	The applicant's goods
<p><u>Class 35:</u> Retail and wholesale services, whether or not online, as well as import-export agency services in the field of [...] fuel in the form of wood, charcoal, briquettes, [...] lighter fluid [...], fire starters, [...].</p>	<p>Class 4: Charcoal [fuel]; Fuel; Charcoal briquettes; Lighter fuel; Lighter fluid; Hookah charcoal; Wood chips for smoking foods; Wood chips for use as fuel; Coal briquettes; Briquettes; Firewood; Solid fire starters; Solid fuels.</p>

15. As a preliminary point, it should be noted that section 60A of the Act provides that goods are not to be regarded as being similar to each other on the ground that they appear in the same class under the Nice Classification⁹, or dissimilar on the ground that they appear in different classes under the Nice Classification.”
16. In *Canon*, the Court of Justice of the European Union (“CJEU”) stated (at paragraph 23) that, when making the comparison, “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”.
17. The relevant factors identified by Jacob J. (as he then was) in the *Treat* case¹⁰, for assessing similarity were:
 - a. The uses of the respective goods or services;
 - b. The users of the respective goods or services;
 - c. The physical nature of the goods or services;
 - 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;

⁹ “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.

¹⁰ [1996] R.P.C. 281

- 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 in the same or different sectors.
18. As per the case of *Separode*,¹¹ I also bear in mind that it is permissible to group the goods/services together, for the purpose of comparison, where they are sufficiently comparable to be assessable in essentially the same way for the same reasons.
19. The opponent submits that the goods in the contested mark's specification and the goods which are the subject of the services in the opponent's specification are "identical or, at the very least, highly similar." The applicant denies this, but provides no further submissions to support why it consider the goods and services to be dissimilar.
20. As a preliminary point, I consider all of the goods in the contested mark's specification to be types of fuel (whether in solid or liquid form), and I note that fuel is defined as "a substance such as coal, oil, or petrol that is burned to provide heat or power".¹² It is also noted that the opponent's specification contains "Retail and wholesale services, whether or not online, as well as import-export agency services in the field of [...] fuel in the form of wood, charcoal, briquettes, [...] lighter fluid [...] fire starters".
21. In light of the above, I consider that the opponent's specification includes retail and wholesale services, and import-export agency services in the field of, amongst other things, all of the goods specified in the applicant's specification. This is because I consider "Charcoal briquettes", "Hookah charcoal", "Coal briquettes", "wood chips for smoking foods", "woodchips for use as fuel" and "Firewood" to be specific forms of "charcoal", "briquettes" or "fuel in the form of wood". I also consider that the average consumer would deem lighter fuel and

¹¹ BL O/399/10, Mr Geoffrey Hobbs QC, sitting as the Appointed Person

¹² <https://www.collinsdictionary.com/dictionary/english/fuelnary>

lighter fluid to be different names for the same product (i.e., a highly flammable liquid used to start a fire), and I also consider “firelighters” to be a type of solid fire stater.

22. In comparing goods with services there is, of course, a difference between the nature of a good and the nature of a service, which also affects the method of use comparison. In this instance, the nature of the applicant’s goods and the services offered by the opponent clearly differ. Their purpose also differs as the purpose of the applicant’s goods is create fire, whereas the purpose of the opponent’s services is to assist with sale transactions. Accordingly, the method of use differs in that the applicant’s goods are to be burnt/lit, whereas the method of use of the opponent’s services is to facilitate a sale transaction. Consequently, I do not consider the applicant’s goods to be identical to the opponent’s services.
23. Goods and services can, however, be complementary, share channels of trade or be in competition with one another. This point was established by the General Court (“GC”) in *Oakley, Inc v OHIM*,¹³.
24. In this instance, I note that the applicant’s goods and the opponent’s services do overlap in trade channels. I consider that the applicant’s goods would be available to purchase in home stores or from specific retailers directly. As I have already acknowledged, the opponent’s services include the retail and whole sale of identical products to the applicant’s goods. Consequently, I do consider there to be complementarity between the opponent’s services and the applicant’s goods, as I do consider the goods and services to be indispensable/important to each other, and that consumers would believe that they derive from the same undertaking.¹⁴ 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 or online. There is also a clear overlap in users of the applicant’s goods and the opponent’s services (i.e., members of the general public).

¹³ Case T-116/06, at paragraphs 46-57

¹⁴ *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06

25. In the light of the above, I do consider the applicant's goods and the opponent's services to be similar to a medium degree.

Average consumer and the purchasing act

26. As the case law above indicates, it is necessary for me to determine who the average consumer is for the respective parties' goods and services. I must then determine the manner in which the goods and services are likely to be selected by the average consumer. 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 and services in question (see *Lloyd Schuhfabrik Meyer*¹⁵).

27. 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*,¹⁶ Birss J. held:

“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 words “average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median.”

28. In respect of the goods and services at issue, I find that the average consumer will be members of the general public. Most of the goods and services in issue will be sold/accessed in retail outlets through self-selection or from online equivalents. The purchasing process for the goods and services in issue will

¹⁵ Case C-342/97

¹⁶ [2014] EWHC 439 (Ch)

therefore be dominated primarily by visual considerations, but I do not discount that aural considerations will also play a part as advice may be sought from sale assistants or through verbal recommendations.

29. The goods and services in issue will be fairly low in price, and the frequency of purchase/use may vary quite considerably in the United Kingdom depending on the time of year. By way of example, through the winter months members of the public with fire places may purchase fire wood fairly frequently, and over the summer period charcoal will be purchased more frequently by members of the public looking to cook on the barbeque. Despite the relatively low value, I find that the average consumer will consider factors such as price and suitability during the purchasing process, and will therefore pay a medium degree of attention during the purchasing process.


Comparison of marks

30. 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 *Bimbo SA v OHIM*,¹⁷ 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.”

¹⁷ Case C-591/12P

31. 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.
32. The respective trade marks are shown below:

Earlier mark	Contested mark
<p>FYRON</p>	

Overall Impression

33. The earlier mark is a word only mark of the word, “Fyron”. There are no other elements in the mark which contribute to its overall impression, so the overall impression lies in the word itself.
34. The contested mark consists of the word “Fyro”, which I consider to be a made-up word. The font is stylised, but only to the extent that it gives the perception that the letters are three dimensional. For that reason, I consider that it plays a lesser role in the overall impression of the mark. There is also what appears to be a device of a flame in the centre of the “O”. The flame device acts as a reference to the goods in the applicant specification, which are various types of fuel. Consequently, I consider that this device plays a lesser role in the overall impression of the mark, with the word “Fyro” being the dominant element.

Visual Comparison

35. Visually, the marks share the same four letters (“Fyro”), positioned in the same order. However, the contested mark contains stylisation and an additional flame device in the centre of the “O”, which are not present in the earlier mark. The earlier mark also has an “N” at the end of the mark, which is not present in the contested mark. Taking these points of visual difference into account, and balancing that differences in short marks (as we have here) are likely to be more apparent to consumers with the fact that consumers tend to focus on the beginning of marks,¹⁸ I find the marks to be visually similar to a medium to high degree.

Aural Comparison

36. As outlined above, the marks share the same first four letters (“Fyro”), but the earlier mark has an “N” at the end of the mark, which is not present in the earlier mark. Whilst I appreciate that the “N” will result in the marks having a different phonetical sound, I once again note that the beginning of marks will have more aural impact. Consequently, I consider the marks to be aurally similar to a high degree.

Conceptual Comparison

37. For a conceptual message to be relevant it must be capable of immediate grasp by the average consumer. This is highlighted in numerous judgments of the GC and the CJEU, including *Ruiz Picasso v OHIM*.¹⁹ The assessment must, therefore, be made from the point of view of the average consumer.

38. I am also conscious of the findings of the GC in *Usinor SA v OHIM*,²⁰ that “as regards the conceptual comparison, it must be noted that while the average consumer normally perceives a mark as a whole and does not proceed to

¹⁸ Cases T-183/02 and T-184/02

¹⁹ [2006] ECR I-643; [2006] E.T.M.R

²⁰ Case T-189/05

analyse its various details (*Lloyd Schuhfabrik Meyer*, paragraph 25), he will nevertheless, perceiving a verbal sign, break it down into verbal elements which, for him, suggest a concrete meaning or which resemble words known to him”.

39. In this instance, whilst I note that the dominant element of both marks are invented words, I note that both marks contain the same first four letters (“Fyro), and I am of the view that the first three letters of both mark (“Fyr”) would be pronounced as “Fire”. In the context of the earlier mark, this is likely to be pronounced as “fire on”. Consequently, I do consider that the average consumer would perceive both marks as alluding to the applicant’s goods or the products which are the subject of the opponent’s services (i.e., fuel/fire products). I also note that this conceptual meaning is reinforced in the contested mark by the presence of the flame device in the “O”. Consequently, I find the marks to be conceptually highly similar.

Distinctive character of the earlier trade mark

40. In *Lloyd Schuhfabrik Meyer* 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 C108/97 and C-109/97 Windsurfing Chiemsee 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).”

41. Whilst the distinctiveness of a mark may be enhanced as a result of it having been used in the market, in this instance the opponent has filed no evidence of use. Consequently, I have only the inherent position to consider.
42. Distinctiveness is a scale along which marks of various types sit. A mark which is allusive of the goods/services will have less distinctive character than one that is not; dictionary words will also be less distinctive than words which are entirely fanciful. However, all will turn on the particular facts. For example, there are “invented” words which are really just composites of two allusive words and only distinctive as a result, and dictionary words which are more or less common than others.
43. In this instance, as acknowledged above, I consider “Fyron” to be an invented word. However, I am of the view that when pronounced out loud the word “Fyron” will sound identical to “Fire on” and will therefore be viewed as an invented word which is a play on the words “Fire on”. Consequently, although it is an invented word, I am of the view that the average consumer would determine the word “Fyron” to be allusive of the opponent’s services in that it suggests that the opponent’s services will assist in turning on a fire (as is the case here). Consequently, I find that the earlier mark has a medium degree of inherent distinctive character.

Likelihood Of Confusion

44. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other, whilst 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.

45. 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 (see *Sabel*²¹). 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 (see *Canon*²²). It is necessary for me to keep in mind the distinctive character of the earlier mark, the average consumer for the goods/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.
46. I have found that the applicant's goods are similar to a medium degree to the opponent's services. I have also found that the marks are visually similar to a medium to high degree, aurally similar to a high degree, conceptually highly similar, and that the earlier mark has a medium degree of inherent distinctive character.
47. I have identified that the average consumers of the goods would be members of the general public. I have also found that the average consumer will pay a medium degree of attention during the purchasing process, and the purchasing process for all of the goods/services in issue would be primarily visual in nature, although I do not discount aural considerations.
48. Weighing up all of the above, noting the principle of imperfect recollection, that consumers rarely have the opportunity to compare marks side by side, and that the beginnings of marks tend to have more visual and aural impact, I am satisfied that the similarities between the marks may result in the average consumer mistaking one mark for the other. Whilst I appreciate that the average consumer for the goods and services at issue will pay a medium degree of attention, and

²¹ C-251/95, para 22

²² C-39/97, para 17

there are some presentational differences between the marks, I consider these to be offset by the degree of similarity between the marks and the goods and services in issue. As such, the presentational differences will be misremembered. Consequently, I consider there to be a likelihood or direct confusion between the marks.

49. For completeness, I will also go on to consider whether there is a likelihood of indirect confusion.

50. Indirect confusion was described in the following terms by Iain Purvis QC (as he then was), sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc*:²³

“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 recognised 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

²³ BL O/375/10

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).”

51. As noted above, I consider that the words FYRO/FYRON are likely to be mistakenly recalled or misremembered as each other. In those circumstances, even if the average consumer recalls the different stylisation/device in the contested mark, the average consumer will consider that it is a logical brand extension/alternative mark being used by the same undertaking. Consequently, I find there to be a likelihood of indirect confusion.

Final Remarks

52. For the avoidance of doubt, even if I am wrong in my finding that the marks will be allusive of the goods/services, I would still have found a likelihood of confusion. This is because if the play on FIRE/FIRE ON is not recognised, the marks will simply be viewed as invented words with no clear meaning. In those circumstances, the lack of conceptual overlap (both marks would be conceptually neutral if viewed as invented words) would be offset by the earlier mark benefitting from a high degree of inherent distinctive character. As such, my finding on likelihood of confusion would remain the same.

CONCLUSION

53. The opposition succeeds in full, and the contested mark is hereby, subject to any successful appeal of my decision, refused registration.

COSTS

54. As the opponent has been successful it is entitled to a contribution towards its costs, based upon the scale published in Tribunal Practice Note 1/2023. In the circumstances, I award the opponent the sum of £700 as a contribution towards the cost of the proceedings. The sum is calculated as follows:

Official fee:	£100
Preparing a notice of opposition & considering the other side's statement:	£250
Preparing submissions-in-lieu of a hearing:	£350
<u>Total:</u>	<u>£700</u>

Dated this 31st day of July 2025

B Hartland
For the Registrar

Annex 1

Class 35: Retail and wholesale services, whether or not online, as well as import-export agency services in the field of lighting, heating, cooling and cooking appliances, barbecues, kamados, barbecue grills, pizza ovens, table grills, fireplaces and outdoor fireplaces and parts and accessories thereof, fuel in the form of wood, charcoal, briquettes, peat, pellets, lighter fluid and firelighters, fire starters, candles, care and cleaning products and instruments for barbecues, kamados, barbecue grills, pizza ovens, table grills fireplaces and outdoor fireplaces, cookery books, vacuum cleaners for barbecues and fireplaces, forks and spoons, knives, knife bags, knife holders, knife sharpeners [hand tools], fire irons for fireplaces, barbecues and grills, thermometers, felt, barbecue gloves, towels, textile banners and flags, banners, party tents, clothing, leather barbecue aprons, salts, herbs, spices and aromatics, sauces and flavoured rubs; the bringing together, for the benefit of others, of a variety of goods (excluding the transport thereof), enabling customers to conveniently view and purchase goods in the field of lighting, heating, cooling and cooking appliances, barbecues, kamados, barbecue grills, pizza ovens, table grills, fireplaces and outdoor fireplaces and parts and accessories thereof, fuel in the form of wood, charcoal, briquettes, peat, pellets, lighter fluid and firelighters, fire starters, candles, care and cleaning products and instruments for barbecues, kamados, barbecue grills, pizza ovens, table grills fireplaces and outdoor fireplaces, cookery books, vacuum cleaners for barbecues and fireplaces, forks and spoons, knives, knife bags, knife holders, knife sharpeners [hand tools], fire irons for fireplaces, barbecues and grills, thermometers, felt, barbecue gloves, towels, textile banners and flags, banners, party tents, clothing, leather barbecue aprons, salts, herbs, spices and aromatics, sauces and flavoured rubs, enabling consumers to conveniently compare and purchase those goods; commercial mediation in establishing business contacts between consumers and producers of lighting, heating, cooling and cooking appliances, barbecues, kamados, barbecue grills, pizza ovens, table grills, fireplaces and outdoor fireplaces and parts and accessories thereof, fuel in the form of wood, charcoal, briquettes, peat, pellets, lighter fluid and firelighters, fire starters, candles, care and cleaning products and instruments for barbecues, kamados, barbecue grills, pizza ovens, table grills fireplaces and outdoor fireplaces, cookery books, vacuum cleaners for barbecues and fireplaces, forks and spoons, knives, knife bags, knife holders, knife sharpeners [hand tools], fire

irons for fireplaces, barbecues and grills, thermometers, felt, barbecue gloves, towels, textile banners and flags, banners, party tents, clothing, leather barbecue aprons, salts, herbs, spices and aromatics, sauces and flavoured rubs; organizing events, exhibitions and fairs for commercial and/or advertising purposes; the aforementioned services also in connection with franchising services, namely, offering business management assistance in the establishment and/or operation of retail companies in the field of lighting, heating, cooling and cooking appliances, barbecues, kamados, barbecue grills, pizza ovens, table grills, fireplaces and outdoor fireplaces and parts and accessories thereof, fuel in the form of wood, charcoal, briquettes, peat, pellets, lighter fluid and firelighters, fire starters, candles, care and cleaning products and instruments for barbecues, kamados, barbecue grills, pizza ovens, table grills fireplaces and outdoor fireplaces, cookery books, vacuum cleaners for barbecues and fireplaces, forks and spoons, knives, knife bags, knife holders, knife sharpeners [hand tools], fire irons for fireplaces, barbecues and grills, thermometers, felt, barbecue gloves, towels, textile banners and flags, banners, party tents, clothing, leather barbecue aprons, salts, herbs, spices and aromatics, sauces and flavoured rubs; operating franchise businesses (consultancy with regard to -); consultancy in relation to advertising for franchisees; marketing and advertising services; information and advice on the aforementioned services; information and advice with respect to the aforementioned services; all of the aforementioned services, whether or not provided via electronic means, including the internet.