O/0712/26

TRADE MARKS ACT 1994

CONSOLIDATED PROCEEDINGS

IN THE MATTER OF APPLICATION NOS. UK00004016596, UK00004016742, UK00004016762, UK00004016773 AND UK00004016752

BY BROOKFIELD PROPERTY (HOLDINGS) LTD

TO REGISTER THE TRADE MARKS:

BROOKFIELD

brookfieldproperty
(holdings) ltd

thebrookfieldgroup bg
The driving force behind UK Roadside Services

thebrookfieldgroup bg

brookfieldretail ltd

IN CLASSES 35, 36, 37, 39 AND 43

AND

IN THE MATTER OF CONSOLIDATED OPPOSITIONS THERETO

UNDER NOS. 447787, 447788, 447790, 447791 AND 447792

BY BROOKFIELD OFFICE PROPERTIES INC

BACKGROUND AND PLEADINGS

1. On 21 February 2024, Brookfield Property (Holdings) Ltd ("the applicant") applied to register the trade marks shown on the cover page of this decision, in the UK ("the applications"). The applications were published for opposition purposes on 8 March 2024 and protection is sought for the services set out in Annex 1 to this decision.

2. On 3 June 2024, the applications were opposed by Brookfield Office Properties Inc ("the opponent") based upon sections 5(1), 5(2) and 5(3) of the Trade Marks Act 1994 ("the Act"). The section 5(1) and 5(2)(a) grounds are directed at UK00004016596 ("the First Application") only. In that regard, the opponent relies upon the following trade marks:

BROOKFIELD

Brookfield

(series of 2)
UKTM no. 2559270
Filing date: 21 September 2010
Registration date: 28 January 2011
("the First Earlier Mark")

BROOKFIELD
UKTM no. 917554809
Filing date: 4 December 2017
Registration date: 11 August 2018
("the Second Earlier Mark")

Brookfield

Brookfield

Brookfield

Brookfield

(series of 4)

UKTM no. 3999909

Filing date: 9 January 2024

Registration date: 5 April 2024

("the Third Earlier Mark")

3. For the oppositions based upon section 5(2)(b) of the Act, which are directed against UK00004016742 ("the Second Application"), UK00004016762 ("the Third Application"), UK00004016773 ("the Fourth Application") and UK00004016752 ("the Fifth Application"), the opponent relies upon the First, Second and Third Earlier Marks, as well as the following trade marks:

Brookfield
Properties

Brookfield
Properties

Brookfield
Properties

Brookfield
Properties

Brookfield
Properties

Brookfield
Properties

(series of 6)
UKTM no. 3999913
Filing date: 9 January 2024
Registration date: 5 April 2024
(“the Fourth Earlier Mark”)

BROOKFIELD ASSET MANAGEMENT
UKTM no. 3696793
Filing date: 17 September 2021
Registration date: 18 February 2022
(“the Fifth Earlier Mark”)

BROOKFIELD RE
UKTM no. 3954302
Filing date: 7 September 2023
Registration date: 15 December 2023
Priority date: 10 March 2023 (US)
(“the Sixth Earlier Mark”)

4. The opponent relies only upon those terms that are listed in Annex 2 to this decision.[1] The opponent claims that the marks are identical or similar, and the services are identical or similar. In respect of the 5(2) ground, the opponent claims that the result of this is that there is a likelihood of confusion. The 5(1) and 5(2) oppositions are directed only at the terms that are underlined in Annex 1 to this decision.

5. Under section 5(3) of the Act, the opponent opposes all of the services in the specifications of the applications as set out in Annex 1 to this decision (i.e. both the underlined and the not-underlined terms). The opponent relies upon only those terms

[1] Although a broader range of services was originally relied upon, the opponent narrowed its position in this regard in Annex A to its Skeleton Argument.

that are underlined in Annex 2 to this decision. The opponent claims that use of the applications, without due cause, would take unfair advantage of, and/or be detrimental to, the repute of the earlier marks.

6. The applicant filed counterstatements denying the grounds of opposition and putting the opponent to proof of use of the First and Second Earlier Marks.

HEARING AND REPRESENTATION

7. A hearing took place before me on 18 June 2026, by video conference. The opponent was represented by Charlotte Blythe of Counsel, instructed by Marks & Clerk LLP. Ms Blythe filed a skeleton argument in advance of the hearing.

8. The applicant elected not to attend the hearing but filed written submissions in lieu of attendance dated 16 June 2026. The applicant has been represented throughout these proceedings by Sonder & Clay.

EVIDENCE

9. The opponent filed evidence in chief in the form of the witness statement of Michelle Campbell, which is accompanied by 25 exhibits (MC1 to MC25). Ms Campbell is Corporate Secretary of the opponent.

10. The applicant filed evidence in the form of the witness statement of Aziz Patel dated 30 January 2025, which is accompanied by 11 exhibits (AP1 to AP11). Mr Patel is the Director of the applicant.

11. The opponent filed evidence in reply in the form of the witness statement of Claire Keating dated 28 March 2025, which is accompanied by 3 exhibits (CK1 to CK3). Ms Keating is an attorney acting on behalf of the opponent in these proceedings.

RELEVANCE OF EU LAW

12. 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

Preliminary Issue

13. In its written submissions in lieu, the applicant makes reference to an honest concurrent use defence and a claim to have "due cause" under section 5(3). It appears that this was the purpose of the evidence filed by the applicant, although that was not expressly stated. However, neither of these points were pleaded by the applicant. Consequently, they will not be considered as part of this decision. As such, I do not need to address that evidence any further.

My Approach

14. There have been some admissions made by the applicant in respect of the section 5(1) ground of opposition. I will address the impact of these first.

15. In respect of the section 5(2) grounds, Ms Blythe was content for me to consider the position based upon the Fifth Earlier Mark in the first instance, returning to the other earlier marks only to the extent that I consider necessary. The reason for this is because the Fifth Earlier Mark appears to represent the greatest point of overlap in terms of similarity of services with the applications, at least out of those marks that are not subject to the use provisions in section 6A of the Act.

16. I will then return to assess the section 5(3) grounds.

Section 5(1)

17. Section 5(1) of the Act states:

> "A trade mark shall not be registered if it is identical with an earlier trade mark and the goods or services for which the trade mark is applied for are identical with the goods or services for which the earlier trade mark is protected."

18. At this stage, I will focus on the Third Earlier Mark as it is not subject to the use provisions in section 6A of the Act. The concessions made regarding any identity with the First and Second Earlier Marks are contingent upon proof of use and, for reasons that will become clear below, I do not need to rely upon them. The applicant accepts that the First Application is identical to the Third Earlier Mark. It also accepts that the term "property development services" in the specification of the First Application is identical to the terms "real estate development" and "residential and commercial land development" in the specification of the Third Earlier Mark. In light of these admissions, and given that the Third Earlier Mark is not subject to the use provisions in section 6A, the opposition must succeed to that extent.

Section 5(2)

19. Section 5(2) of the Act states:

> "A trade mark shall not be registered if because –
>
> > (a) it is identical with an earlier trade mark and is to be registered for goods and services similar to those for which the earlier trade mark is protected, or
> >
> > (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.”

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

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

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

> (a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors;
>
> (b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;
>
> (c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;
>
> (d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

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

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

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

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

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

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

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

Comparison of services

22. The full specifications upon which the opponent relies can be found in Annex 2 to this decision. However, I have included only those terms that I consider represent the opponent's best case in the following table. With that in mind, the competing services are as follows:

The Opponent's services	The Applicant's services
Class 36 Real estate management services; real estate leasing; real estate leasing services for commercial, and residential properties; real estate brokerage services; real estate investment; business management consultancy and advisory services; financial and monetary business services namely, […] cash management […]; management of land, namely management of timber properties. Class 37 Real estate development.	Class 35 Business management of retail outlets; management services to businesses operating on retail sites; office management and administration services; promotion and marketing of third party retail services; franchising services to retail businesses; consultancy, advisory and information services relating to the above services. Class 36 Real estate management services; real estate agency services; rental and leasing of real estate; rental and leasing of land; management of land; land acquisition services; electronic funds transfer services; cash dispensing services; consultancy, advisory and information services relating to the above services. Class 37 Property development services.[2] Class 39 Provision of parking areas; provision of travel, traffic and transport information; consultancy, advisory and

[2] This term is eliminated by the section 5(1) opposition in respect of the First Application, but still needs to be considered here in respect of the other applications.

	information services relating to the above services. <u>Class 43</u> Restaurant, café, cafeteria, snack bar and coffee shop services; advice relating to the provision of food and drink; hotel and motel services; provision of temporary accommodation and sleeping facilities; reservation services for temporary accommodation; consultancy, advisory and information services relating to the above services.

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

> "In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, inter alia, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary."

24. 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.

25. In *Gérard Meric v Office for Harmonisation in the Internal Market,* Case T- 133/05, the General Court 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."

26. Another factor in assessing similarity is to consider the extent to which the services at issue may be regarded as "complementary", which case law describes as meaning that "… 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 the responsibility for those goods lies with the same undertaking."[3] For the purposes of assessing similarity, it is permissible to group specified terms together where they are sufficiently comparable in essentially the same way for essentially the same reasons.[4]

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

4 See *Separode* Trade Mark (BL O/399/10)

Class 35

Business management of retail outlets; management services to businesses operating on retail sites.

27. I note that the specification of the Fifth Earlier Mark does list various business management services in this class, but these were not relied upon in the opponent's Form TM7. However, the term "business management consultancy and advisory services" does appear in class 36 of the specification of the Fifth Earlier Mark and is relied upon in the Form TM7. It is not clear to me why that term appears in that class, as it is (and was at the time of filing the Fifth Earlier Mark) proper to class 35. However, plainly, there will be an overlap in purpose, nature, method of use and trade channels. Consequently, they are (at least) highly similar.

Office management and administration services.

28. These services are likely to overlap in purpose, method of use, trade channels, user and nature with the opponent's "business management consultancy and advisory services" in class 36 of the specification of the Fifth Earlier Mark. Consequently, I find them to be (at least) highly similar.

Promotion and marketing of third party retail services.

29. The opponent's "real estate management services" in the specification of the Fifth Earlier Mark would include the operation of, for example, shopping centres with multiple retail units that would be let to individual businesses. I accept that part of the operation of such a site might also include promoting the services offered by the retailers within those units. Consequently, I accept that there would be an overlap in trade channels and users. The purpose, method of use and nature of the services differ. They are similar to a low degree.

Franchising services to retail businesses.

30. This could include advice on operating a franchise business, including advice regarding the management of those businesses. Consequently, I find there to be an overlap in nature, method of use, purpose, trade channels and user with “business management, consultancy and advisory services” in the specification of the Fifth Earlier Mark. They are, at least, similar to a medium degree.

Consultancy, advisory and information services relating to the above services.

31. These services will follow the services to which they relate i.e. if the services to which they relate are similar, then there will also be similarity with these services.

Class 36

Real estate management services.

32. This term appears identically in the specification of the Fifth Earlier Mark.

Real estate agency services.

33. This term is synonymous with “real estate brokerage services” in the specification of the Fifth Earlier Mark. They are, therefore, identical.

Rental and leasing of real estate; rental and leasing of land.

34. These terms are identical on the principle outlined in *Meric* to “real estate leasing services for commercial, and residential properties” in the specification of the Fifth Earlier Mark.

Management of land.

35. This term is identical on the principle outlined in *Meric* to “management of land, namely management of timber properties” in the specification of the Fifth Earlier Mark.

Land acquisition services.

36. This term is part of “real estate brokerage services” and “real estate investment” in the specification of the Fifth Earlier Mark. Consequently, they are identical on the principle outlined in *Meric*. If I am wrong in this finding, the services will overlap in user, trade channels and purpose and will be similar to (at least) a medium degree.

Electronic funds transfer services; cash dispensing services.

37. My primary view is that these terms are identical on the principle outlined in *Meric* to “financial and monetary business services namely, […] cash management […]” in the specification of the Fifth Earlier Mark. However, even if I am wrong in that finding, the services would be provided by the same undertakings (such as banks) to the same users. The average consumer would expect the same undertaking to be responsible for both, and they are important to each other, resulting in complementarity. Consequently, they are similar to at least a medium degree.

Consultancy, advisory and information services relating to the above services.

38. These services will follow the services to which they relate i.e. if the services to which they relate are similar, then there will also be similarity with these services.

<u>Class 37</u>

Property development services.

39. This term is synonymous with “real estate development” in the specification of the Fifth Earlier Mark. They are, therefore, identical.

<u>Class 39</u>

Provision of parking areas.

40. The argument in respect of these services is that they will be provided by businesses that manage real estate, for example, where a residential property that is being managed also comes with the provision of parking spaces. I accept that there may be an overlap in trade channels and user in this regard. In my view, there is a low degree of similarity with “real estate management services” in the specification of the Fifth Earlier Mark.

Provision of travel, traffic and transport information.

41. I am not convinced that the same logic applies to these services. These services do not relate to parking but to travel, traffic and transport. In my view, they are dissimilar to “real estate management” in the specification of the Fifth Earlier Mark, and I can see no other term which puts the opponent in any stronger position.

Consultancy, advisory and information services relating to the above services.

42. These services will follow the services to which they relate i.e. if the services to which they relate are similar, then there will also be similarity with these services.

<u>Class 43</u>

Restaurant, café, cafeteria, snack bar and coffee shop services; advice relating to the provision of food and drink.

43. I appreciate that there may be certain circumstances in which real estate developments would incorporate these venues, or where real estate management may involve the management of properties that are used for these purposes. However, in both of those scenarios, the trade channels and users differ. This is because these services in the applicant’s specifications are provided to the general public by restaurant/café providers and the opponent’s services are provided to restaurant/café providers, by real estate companies. The purpose, method of use and nature clearly differ. Given the differing trade channels, there is no complementarity, nor do I consider there to be competition given the differing purposes. In my view, the services are dissimilar.

Hotel and motel services; provision of temporary accommodation and sleeping facilities.

44. These services may overlap to an extent with “real estate leasing” in the specification of the Fifth Earlier Mark, because real estate leasing, where short term leasing is involved, may overlap in purpose and nature with these temporary accommodation services in the applicant’s specifications. There may also be an element of competition between them (for example, you may choose a short term lease in a managed residential property or some other temporary accommodation). In my view, these services are similar to a medium degree.

Reservation services for temporary accommodation.

45. Whilst I appreciate that short term leasing would be encompassed by “real estate leasing” in the specification of the Fifth Earlier Mark, I am not convinced that reservation services would be used in relation to this type of temporary accommodation. Consequently, I do not consider that these services would overlap in trade channels. The user may plainly overlap, but the nature, method of use and purpose differ. There is no competition or complementarity. In my view, the services are dissimilar.

Consultancy, advisory and information services relating to the above services.

46. These services will follow the services to which they relate i.e. if the services to which they relate are similar, then there will also be similarity with these services.

The average consumer and the nature of the purchasing act

47. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purposes 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: *Lloyd Schuhfabrik Meyer,* Case C-342/97.

48. In *Iconix*, the Supreme Court approved the comments of Arnold LJ in *Lidl Great Britain Ltd & Anor v Tesco Stores Ltd & Anor (Rev1)* [2024] EWCA Civ 262, where he pointed out that:

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

49. I agree with Ms Blythe that the average consumer for the services will include both members of the general public and business users. For example, real estate leasing

might be used by both members of the general public and business users, whereas business management services are most likely to be used by business users. The average consumer is likely to consider factors such as customer service standards, location and experience when selecting the services. In my view, at least a medium degree of attention will be paid when purchasing the services, although it may be higher in some circumstances, such as where residential accommodation is concerned.

50. The average consumer is likely to select the services following perusal of signage on physical premises, websites and advertisements. Consequently, visual considerations will dominate the purchasing process. However, I do not discount an aural component given that word-of-mouth recommendations may play a part and advice may be sought from sales assistants.

Comparison of trade marks

51. It is clear from *Sabel* that the average consumer normally perceives a trade 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 trade marks must be assessed by reference to the overall impression created by the trade 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."

52. 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.

53. The respective trade marks are shown below:

Opponent's trade mark	Applicant's trade marks
BROOKFIELD ASSET MANAGEMENT (the Fifth Earlier Mark)	BROOKFIELD (the First Application) brookfieldproperty (holdings) ltd (the Second Application) thebrookfieldgroup bg The driving force behind UK Roadside Services (the Third Application) thebrookfieldgroup bg (the Fourth Application) brookfieldretail ltd (the Fifth Application)

<u>Overall Impression</u>

54. The Fifth Earlier Mark consists of the words BROOKFIELD ASSET MANAGEMENT. The word BROOKFIELD is the most distinctive element of the mark, as the words ASSET MANAGEMENT are likely to be seen as non-distinctive (or, at best, weakly distinctive), indicating the business's primary field of activity.

55. The First Application consists of the word BROOKFIELD. There are no other elements to contribute to the overall impression which lies in the word itself.

56. The Second and Fifth Applications both consist of the word BROOKFIELD followed by (weakly or) non-distinctive words, to create the name of a legal entity (i.e. property (holdings) ltd or retail ltd). In both marks, the word BROOKFIELD is presented in a lower case, blue font, with the rest of the words presented in a green font. The effect of the relative distinctiveness of the different words, combined with the use of colour to highlight the word BROOKFIELD, means that it is the most distinctive and dominant element of the marks, albeit the overall impression lies in their totality.

57. The Third and Fourth Applications both consist of the words THE BROOKFIELD GROUP (conjoined). In both marks, the word BROOKFIELD is highlighted through the use of colour (white in the Third Application and blue in the Fourth Application). In both marks the small letters BG appear in lower case in a circle device at the end of the mark. In the Third Application the words are presented on a blue background with vehicle devices, above the (much smaller) words “the driving force behind the UK roadside services”. In my view, given its relative distinctiveness to the other words and highlighting through colour, the word BROOKFIELD plays the most distinctive and dominant role in the overall impression of each mark. The small letters (given their size), the slogan, given its descriptive nature, and the background/devices (given their decorative role) carry less weight.

Visual Comparison

58. The Fifth Earlier Mark and the First Application overlap in the presence of the word BROOKFIELD. The words ASSET MANAGEMENT in the Fifth Earlier Mark are a point of visual difference, although this will have a lesser impact due to their weak or non-distinctive role and the fact that the average consumer tends to pay more attention to the beginning of marks than the end (the common word appears as the first element in the Fifth Earlier Mark and the only element in the First Application).[5] Taking all of this into account, I find the marks to be visually similar to between a medium and high degree.

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

59. The Second and Fifth Application also overlap with the Fifth Earlier Mark in the presence of the word BROOKFIELD. However, the additional words will act as points of visual difference. I bear in mind that the common element is at the beginning of the marks and the additional words are not particularly distinctive (or distinctive at all), meaning that the impact of this is reduced. I bear in mind that the Fifth Earlier Mark is a word only mark which could be used in any colour. Consequently, I find the marks to be visually similar to a medium degree.

60. The Fourth Application and the Fifth Earlier Mark overlap in the presence of the word BROOKFIELD. However, the additional words ASSET MANAGEMENT in the Fifth Earlier Mark are a point of visual difference, as are the additional words THE and GROUP and the circular device in the Fourth Application. In my view, they are visually similar to a slightly lower than medium degree.

61. The same applies to the comparison with the Third Application. However, the additional differences created by the background with devices and the slogan mean that the differences are greater. Consequently, I find the marks to be visually similar to between a low and medium degree.

Aural Comparison

62. The word BROOKFIELD will be pronounced identically in both the First Application and the Fifth Earlier Mark. The words ASSET MANAGEMENT will be a point of aural difference, although I bear in mind that they appear at the end of the mark and are weakly distinctive at best. In my view, the marks are aurally similar to between a medium and high degree.

63. The Second and Fifth Application also share the common pronunciation of BROOKFIELD with the Fifth Earlier Mark. However, the words ASSET MANAGEMENT in the Fifth Earlier Mark and PROPERTY (HOLDINGS) LTD or RETAIL LTD in the Second and Fifth Applications will be points of aural difference. In my view, they are aurally similar to a medium degree.

64. In my view, the only element of the Third Application that will be articulated is the words THE BROOKFIELD GROUP. This is because the only other word element is a non-distinctive slogan. Consequently, it will be pronounced identically to the Fourth Application and so the same comparison applies to both. With this in mind, the word BROOKFIELD will be pronounced identically in the Third and Fourth Applications and in the Fifth Earlier Mark. However, it is not the first word in the Third and Fourth Applications which will have an impact on similarity. The words THE and GROUP in the Third and Fourth Applications and the words ASSET MANAGEMENT in the Fifth Earlier Mark are points of aural difference. In my view, they are aurally similar to a slightly lower than medium degree.

Conceptual Comparison

65. The word BROOKFIELD is most likely to be perceived as a name and will be viewed as such by a significant proportion of average consumers. This will be a common point of conceptual similarity across all of the marks. With regard to the comparison with the First Application, the only point of difference is the words ASSET MANAGEMENT which indicate the primary focus of the business and are, therefore, not particularly distinctive (if they can be said to be distinctive at all). The marks are conceptually similar to between a medium and high degree.

66. The Second and Fifth Applications both refer to legal entities (being companies) with the name BROOKFIELD. This is a point of conceptual distinction, as the Fifth Earlier Mark does not refer to a company, albeit it is not a distinctive point of difference. The specific sectors (ASSET MANAGEMENT, PROPERTY and RETAIL) are also points of conceptual distinction, although not distinctive ones. In my view, the marks are conceptually similar to a medium degree.

67. The Fourth Application refers to a group called BROOKFIELD. This is a point of conceptual distinction, as there is no reference to a group in the Fifth Earlier Mark. However, again, this is not a particularly distinctive point of difference. The words ASSET MANAGEMENT in the Fifth Earlier Mark also have no counterpart in the Fourth Application. I do not consider that any meaning will be conveyed by the letters BG in the Fourth Application over and above being recognised as the first letters of

the words BROOKFIELD GROUP. In my view, there is a medium degree of conceptual similarity between the marks.

68. The same is true of the Third Application, but the meaning conveyed by the slogan (and reinforced by the vehicle devices) will be a point of conceptual distinction. In my view, the marks are conceptually similar to between a low and medium degree.

Distinctive character of the Fifth Earlier Mark

69. 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 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR 1-2779, 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)."

70. 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 services, to those with high inherent distinctive character, such as invented words which have no allusive qualities. The distinctive character of a mark can be enhanced by virtue of the use that has been made of it.

71. The word BROOKFIELD is likely to be perceived as a name by a significant proportion of average consumers. To my understanding, it is not a particularly common one. In my view, it is likely to be inherently distinctive to a medium degree. I do not consider that the addition of the words ASSET MANAGEMENT (which are weakly distinctive, at best) raises the distinctiveness of the Fifth Earlier Mark to any material degree. The opponent has filed evidence of use. However, for the purposes of this ground, I will focus upon the inherent distinctiveness of the Fifth Earlier Mark only.

Likelihood of confusion

72. 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 them and the services down to the responsible undertaking being the same or related. 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 services may be offset by a greater degree of similarity between the marks, and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the Fifth Earlier Mark, the average consumer for the services and the nature of the purchasing act. In doing so, I must be alive to the fact that the average consumer rarely has an 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.

73. I have found as follows:

a. The services vary from being similar to a low degree to identical (except where I have found them to be dissimilar).

b. The average consumer is a member of the general public or a business user, who will pay at least a medium degree of attention during the purchasing process (although it may be higher in some circumstances).

c. The purchasing process is predominantly visual, although I do not discount an aural component to the purchase.

d. The First Application and the Fifth Earlier Mark are visually, aurally and conceptually similar to between a medium and high degree.

e. The Second Application and the Fifth Earlier Mark are visually, aurally and conceptually similar to a medium degree.

f. The Third Application and the Fifth Earlier Mark are visually and conceptually similar to between a low and medium degree, and aurally similar to a slightly lower than medium degree.

g. The Fourth Application and the Fifth Earlier Mark are visually and aurally similar to a slightly lower than medium degree, and conceptually similar to a medium degree.

h. The Fifth Application and the Fifth Earlier Mark are visually, aurally and conceptually similar to a medium degree.

i. The Fifth Earlier Mark is inherently distinctive to a medium degree.

74. In my view, given that the dominant and distinctive elements of all of the applications and the Fifth Earlier Mark is the word BROOKFIELD, and it is likely to be this that is retained in the mind of the average consumer, I find that the marks are likely to be mistakenly recalled one for the other. This is particularly the case bearing in mind the principle of imperfect recollection. I make this finding notwithstanding the high degree of attention that may be paid in some circumstances. In my view, this applies to all services that I have found to be similar to a medium degree or higher.

75. I will now consider whether there is a likelihood of indirect confusion. In *L.A. Sugar Limited v By Back Beat Inc*, Case 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)".

76. Even if the differences between the marks are identified, the common use of the word BROOKFIELD with weakly or non-distinctive matter is consistent with a sub-brand or brand extension. Consequently, I find there to be a likelihood of indirect confusion in respect of all services that I have found to be similar to a medium degree or higher. Where the services are similar to only a low degree, this will offset the similarity of the marks and avoid confusion arising.

77. The oppositions based upon section 5(2)(b) of the Act succeed in relation to the following services:

Class 35	Business management of retail outlets; management services to businesses operating on retail sites; office management and administration services; franchising services to retail businesses; consultancy, advisory and information services relating to the above services.
Class 36	Real estate management services; real estate agency services; rental and leasing of real estate; rental and leasing of land; management of land; land acquisition services; electronic funds transfer services; cash dispensing services; consultancy, advisory and information services relating to the above services.
Class 37	Property development services.
Class 39	Provision of parking areas; consultancy, advisory and information services relating to the above services.
Class 43	Hotel and motel services; provision of temporary accommodation and sleeping facilities; consultancy, advisory and information services relating to the above services.

Section 5(3)

78. Section 5(3) of the Act states:

> "5(3) A trade mark which -
>
> > (a) is identical with or similar to an earlier trade mark, […] shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the United Kingdom and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier trade mark."

79. Section 5(3A) of the Act states:

> "Subsection (3) applies irrespective of whether the goods and services for which the trade mark is to be registered are identical with, similar to or not similar to those for which the earlier trade mark is protected."

80. The relevant case law can be found in the following judgments of the CJEU: *Case C-375/97, General Motors, Case 252/07, Intel, Case C-408/01, Adidas-Salomon, Case C-487/07, L'Oreal v Bellure and Case C-323/09, Marks and Spencer v Interflora and Case C383/12P, Environmental Manufacturing LLP v OHIM*. The law appears to be as follows.

> (a) The reputation of a trade mark must be established in relation to the relevant section of the public as regards the goods or services for which the mark is registered; *General Motors, paragraph 24.*
>
> (b) The trade mark for which protection is sought must be known by a significant part of that relevant public; *General Motors, paragraph 26*.

(c) It is necessary for the public when confronted with the later mark to make a link with the earlier reputed mark, which is the case where the public calls the earlier mark to mind; *Adidas Saloman, paragraph 29 and Intel, paragraph 63.*

(d) Whether such a link exists must be assessed globally taking account of all relevant factors, including the degree of similarity between the respective marks and between the goods/services, the extent of the overlap between the relevant consumers for those goods/services, and the strength of the earlier mark's reputation and distinctiveness; *Intel, paragraph 42*

(e) Where a link is established, the owner of the earlier mark must also establish the existence of one or more of the types of injury set out in the section, or there is a serious likelihood that such an injury will occur in the future; *Intel, paragraph 68*; whether this is the case must also be assessed globally, taking account of all relevant factors; *Intel, paragraph 79.*

(f) Detriment to the distinctive character of the earlier mark occurs when the mark's ability to identify the goods/services for which it is registered is weakened as a result of the use of the later mark, and requires evidence of a change in the economic behaviour of the average consumer of the goods/services for which the earlier mark is registered, or a serious risk that this will happen in future; *Intel, paragraphs 76 and 77 and Environmental Manufacturing, paragraph 34.*

(g) The more unique the earlier mark appears, the greater the likelihood that the use of a later identical or similar mark will be detrimental to its distinctive character; *Intel, paragraph 74.*

(h) Detriment to the reputation of the earlier mark is caused when goods or services for which the later mark is used may be perceived by the public in such a way that the power of attraction of the earlier mark is reduced, and occurs particularly where the goods or services offered under the later mark have a characteristic or quality which is liable to have a negative impact of the earlier mark; *L'Oreal v Bellure NV, paragraph 40.*

(i) The advantage arising from the use by a third party of a sign similar to a mark with a reputation is an unfair advantage where it seeks to ride on the coat-tails of the senior mark in order to benefit from the power of attraction, the reputation and the prestige of that mark and to exploit, without paying any financial compensation, the marketing effort expended by the proprietor of the mark in order to create and maintain the mark's image. This covers, in particular, cases where, by reason of a transfer of the image of the mark or of the characteristics which it projects to the goods identified by the identical or similar sign, there is clear exploitation on the coat-tails of the mark with a reputation (*Marks and Spencer v Interflora, paragraph 74 and the court's answer to question 1 in L'Oreal v Bellure*).

81. The conditions of section 5(3) are cumulative. Firstly, the opponent must show that the earlier marks and the applications are similar. Secondly, the opponent must show that the earlier marks have achieved a level of knowledge/reputation amongst a significant part of the public. Thirdly, it must be established that the level of reputation and the similarities between the marks will cause the public to make a link between them in the sense of the earlier marks being brought to mind by the later mark. Finally, assuming the first three conditions have been met, section 5(3) requires that one or more of the types of damage will occur. It is unnecessary for the purposes of section 5(3) that the services be similar, although the relative distance between them is one of the factors which must be assessed in deciding whether the public will make a link between the marks.

My approach

82. Under this ground, the opponent relies upon all of the earlier marks. Given that the majority of the evidence appears to relate to the word only mark BROOKFIELD (i.e. the First Earlier Mark), I will assess this ground based upon the First Earlier Mark, as it represents the opponent's best case. I bear in mind that this mark is subject to proof of use. If the evidence is sufficient to satisfy the requirement for a reputation, then it will also establish genuine use to the same extent. Consequently, I will address this below.

Similarity of the marks

83. Given that all of the marks include the word BROOKFIELD as their only or most dominant and distinctive element, they are plainly similar.

Reputation

84. To my understanding, there are different aspects of the opponent's business. The part of the business which is most important for the purposes of these proceedings (given that it is the closest to those of the applicant) is the real estate management services. As of October 2024, the opponent managed 32 properties in the UK, totalling more than 12 million square feet of commercial space, logistics properties and retail locations. As of the date of Ms Campbell's statement, it also had a further 550,000 square feet of space under construction, and a further 1.8 million square feet in the development pipeline. That being said, I bear in mind that activities of the opponent after the relevant date cannot assist it in proving a reputation.

85. In that regard, I note that there is evidence of properties that were being managed by the opponent under the BROOKFIELD mark in the UK prior to the relevant date. These include the following:

30 Fenchurch Street	2004	Over 540,000 square feet of office space (including ground floor retail space)
99 Bishopsgate	2013	Over 330,000 square feet of office space and 6,000 square feet of retail space
Aldgate Tower	2015	Over 320,000 square feet of office space and 1,000 square feet of retail space
City Point	2016	Over 700,000 square feet of office and retail space

Shoreditch High Street	2017	630,000 square feet of office space and nearly 30,000 square feet of retail, restaurant and catering space.
NEXUS	2019	Over 150,000 square feet of office and retail space.
100 Bishopsgate	2019	Over 950,000 square feet of office and restaurant/catering space
The Gilbert	2021	Over 150,000 square feet of office space

86. Accompanying brochures show that the management services offered by the opponent include reception services, provision of events and activities and provision of parking and cycle spaces.[6] Ms Campbell states that they also provide services such as cleaning and repair, security staff and maintenance of communal spaces. Ms Campbell confirms that the BROOKFIELD signage appears at these properties.

87. Ms Campbell's unchallenged evidence is that the opponent generated almost £3 million per year in 2021, 2022 and 2023 in property management fees alone. There is also evidence that £300,000 per year is spent on marketing by the opponent, although this is not broken down into the proportion spent on each individual aspect of the business.

88. I bear in mind that there are limitations to the opponent's evidence regarding its property management activities, namely that it appears to have a fairly narrow geographical spread (all being confined to the London area) and there is no market share provided. I note the applicant's submissions that some of the figures provided in the narrative evidence are not supported by documentary evidence. However, given that there was no challenge during the evidence rounds to the accuracy of those figures, nor has there been a request for cross-examination, it is not open to the

[6] Exhibit MC9

applicant to ask me to disbelieve them at this stage. I note that the activities have been long-standing, there is a significant amount of retail/commercial space under management and this appears to have generated a reasonably high income. Taking all of this into account, I am satisfied that the opponent benefits from a reasonable reputation in relation to property management services. For the avoidance of doubt, I am also satisfied that in relation to the evidence which falls within the relevant period, it also establishes genuine use in relation to these services.

Link

89. As I noted above, my assessment of whether the public will make the required mental 'link' between the marks must take account of all relevant factors. The factors identified in *Intel* are:

> <u>The degree of similarity between the conflicting marks</u>
>
> The First Earlier Mark and the First Application are identical.
>
> The First Earlier Mark and the Second and Fifth Applications differ only in respect of the non-distinctive words PROPERTY (HOLDINGS) LTD or RETAIL LTD. In my view, the marks are visually, aurally and conceptually similar to between a medium and high degree.
>
> The First Earlier Mark and the Fourth Application differ visually in the presence of the additional words THE and GROUP, and the letters BG within the circular device. They are visually similar to a medium degree. The device with letters BG will not be articulated, nor will they convey any meaning. Consequently, I find the marks to be aurally and conceptually similar to between a medium and high degree.
>
> The same is also true of the comparison with the Third Application, although the additional slogan and devices will act as further points of visual and conceptual difference (although they will not be articulated, in my view). I find

the marks to be aurally similar to between a medium and high degree, and visually and conceptually similar to a slightly lower than medium degree.

The nature of the goods or services for which the conflicting marks are registered, or proposed to be registered, including the degree of closeness or dissimilarity between those goods or services, and the relevant section of the public

Given my finding under section 5(2)(b), I will focus my analysis upon those services that survived the 5(2)(b) opposition, or which are only objected to under this ground.

Retail services connected with food, drink, stationery, books, magazines, toys, games, flowers, mobile phones, mobile phone accessories, car accessories; retail services connected with fuel, petroleum, oils, lubricants, greases.

I have no reason to conclude that there is any connection between these services and those for which the opponent has a reputation. Consequently, I find them to be dissimilar.

Promotion and marketing of third party retail services.

For the same reasons set out above, I find these services to be similar to the opponent's services to a low degree.

Car washing; vehicle washing; vehicle cleaning; vehicle valet services.

All of these services are or could include vehicle valeting services which might be provided within the same properties that are managed by the opponent. For example, if the opponent's residential properties include the provision of parking spaces (which the evidence shows that it does), there may be a valeting service included with that provision. Consequently, there is a connection between them.

Vehicle maintenance.

This, to my mind, is more than simply cleaning the vehicle; it involves carrying out activities needed to keep a vehicle in good working order and prevent breakdowns. With that in mind, I see no basis for any overlap with the opponent's services.

Provision of travel, traffic and transport information.

I accept that this is the type of information that might be provided by a front desk within a managed property. The evidence shows that the opponent's management services include the provision of front desk services in some cases. Consequently, I find there to be a connection between these services and those for which the opponent has a reputation.

Catering services; restaurant, café, cafeteria, snack bar and coffee shop services; advice relating to the provision of food and drink.

I bear in mind that I have found these services to be dissimilar to the opponent's services under the section 5(2)(b) ground. However, whilst they are not similar, I find that these are services which are often physically located in the type of buildings that are managed by the opponent. Consequently, there is some proximity between them.

Reservation services for temporary accommodation.

Again, I bear in mind that these services are dissimilar under section 5(2)(b). However, there is a connection between property management services and the reservation of temporary accommodation because buildings which offer short term leasing to users will have a reservation system, which may be perceived as being operated by the property management company.

The strength of the earlier mark's reputation

The earlier marks have a reasonable reputation.

The degree of the earlier mark's distinctive character, whether inherent or acquired through use

Whilst I recognise that enhanced distinctiveness and reputation differ, the factors relevant to both are the same. In my view, the opponent benefits from a moderate degree of enhanced distinctiveness in relation to property management services.

Whether there is a likelihood of confusion

I have found a likelihood of confusion where there is sufficient proximity between the services.

90. In my view, the common distinctive element of the marks, combined with the opponent's reputation will result in a link being made in the mind of the relevant public where there is some connection or proximity between the services. Where the services are dissimilar, and no proximity or connection exists, I find that the common use of the name BROOKFIELD will not result in a link being made. If a link is made, it will be too fleeting to give rise to damage.

Damage

91. I must now consider whether any type of damage pleaded will arise in respect of those services for which I have found a link will be made.

Unfair advantage

92. The evidence shows that the opponent has invested in marketing its brand over time and gained a reputation as a result of its activities. In my view, the applicant

benefitting from association with that reputation and the familiarity that results, without having to invest in developing its brand, amounts to unfair advantage.

93. As I have found there to be unfair advantage, I do not need to consider the other pleaded heads of damage.

94. The opposition based upon section 5(3) of the Act succeeds with the exception of the following services:

Class 35	Retail services connected with food, drink, stationery, books, magazines, toys, games, flowers, mobile phones, mobile phone accessories, car accessories; retail services connected with fuel, petroleum, oils, lubricants, greases; consultancy, advisory and information services relating to the above services..
Class 37	Vehicle maintenance.

Final Remarks

95. For the avoidance of doubt, even if I had considered the other aspects of the opponent's business under this ground (being investment services, asset management services and property development services), this would not have put the opponent in any stronger position in relation to those services that have survived the opposition. This is because the distance between the surviving services and those provided by the opponent is even greater than in relation to the services that I considered above. Consequently, the oppositions would have failed for the same reasons.

CONCLUSION

96. The oppositions succeed in relation to the following services for which, subject to appeal, the applications are refused:

Class 35 Business management of retail outlets; management services to businesses operating on retail sites; office management and administration services; promotion and marketing of third party retail services; franchising services to retail businesses; consultancy, advisory and information services relating to the above services.

Class 36 Real estate management services; real estate agency services; rental and leasing of real estate; rental and leasing of land; management of land; land acquisition services; electronic funds transfer services; cash dispensing services; consultancy, advisory and information services relating to the above services.

Class 37 Car washing; vehicle washing; vehicle cleaning; vehicle valet services; property development services.

Class 39 Provision of parking areas; provision of travel, traffic and transport information; consultancy, advisory and information services relating to the above services.

Class 43 Catering services; restaurant, café, cafeteria, snack bar and coffee shop services; advice relating to the provision of food and drink; hotel and motel services; provision of temporary accommodation and sleeping facilities; reservation services for temporary accommodation; consultancy, advisory and information services relating to the above services.

97. The oppositions are unsuccessful in relation to the following services for which, subject to appeal, the applications may proceed to registration:

Class 35 Retail services connected with food, drink, stationery, books, magazines, toys, games, flowers, mobile phones, mobile phone accessories, car accessories; retail services connected with fuel, petroleum, oils, lubricants, greases; consultancy, advisory and information services relating to the above services.

Class 37 Vehicle maintenance.

COSTS

98. The opponent has enjoyed the greater degree of success and is, therefore, entitled to a contribution towards its costs based upon the scale published in Tribunal Practice Notice 1/2023. I have made what I consider to be an appropriate reduction to account for the only partial success. In the circumstances, I award the opponent the sum of **£2,900**, calculated as follows:

Preparing Notices of opposition and considering the counterstatements	£300
Preparing and filing evidence	£800
Preparing for and attending the hearing	£800
Official fees (£200 x 5)	£1,000
Total	**£2,900**

99. I therefore order Brookfield Property (Holdings) Ltd to pay Brookfield Office Properties Inc the sum of **£2,900**. This sum is to 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 10th day of August 2026

S WILSON
For the Registrar

ANNEX 1

Class 35

Retail services connected with food, drink, stationery, books, magazines, toys, games, flowers, mobile phones, mobile phone accessories, car accessories; retail services connected with fuel, petroleum, oils, lubricants, greases; business management of retail outlets; management services to businesses operating on retail sites; office management and administration services; promotion and marketing of third party retail services; franchising services to retail businesses; consultancy, advisory and information services relating to the above services.

Class 36

Real estate management services; real estate agency services; rental and leasing of real estate; rental and leasing of land; management of land; land acquisition services; electronic funds transfer services; cash dispensing services; consultancy, advisory and information services relating to the above services.

Class 37

Car washing; vehicle washing; vehicle maintenance; vehicle cleaning; vehicle valet services; property development services.

Class 39

Provision of parking areas; provision of travel, traffic and transport information; consultancy, advisory and information services relating to the above services.

Class 43

Catering services; restaurant, café, cafeteria, snack bar and coffee shop services; advice relating to the provision of food and drink; hotel and motel services; provision of temporary accommodation and sleeping facilities; reservation services for temporary accommodation; consultancy, advisory and information services relating to the above services.

ANNEX 2

The First Earlier Mark

Class 35

Relocation services; consultancy, advisory and information services relating to the aforesaid services.

Class 36

Financial services; financial investments in the fields of real estate and securities; financial management; investment services; real estate, stocks, equities and commodity investment advice services; investment management services; financial research; real estate management; real estate leasing; real estate leasing for commercial properties; real estate leasing for residential properties; real estate brokerage; real estate investment; investment management in real estate; investment management in commercial, institutional, industrial and residential real estate; investment services; real estate, stocks, equities and commodity investment advice services; investment management services; consultancy, advisory and information services relating to the aforesaid services.

Class 37

Real estate development; residential and commercial land development; building services; construction services; building construction services; construction planning services; building maintenance and repair; custom construction and building renovation; renovation; construction management; developing, managing and building real estate; developing, managing and building commercial, institutional, industrial and residential real estate; developing, managing and building oil and gas pipelines and storage; construction consultation services; consultancy, advisory and information services relating to the aforesaid services.

The Second Earlier Mark

Class 36

Financial services; financial investments in the fields of real estate and securities; financial management; investment services; real estate, stocks, equities and commodity investment advice services; investment management services; financial research; real estate management; real estate leasing; real estate leasing for commercial properties; real estate leasing for residential properties; real estate brokerage; real estate investment; investment management in real estate; investment management in commercial, institutional, industrial and residential real estate; managing real estate; managing commercial, institutional, industrial and residential real estate; consultancy, advisory and information services relating to the aforesaid services.

Class 37

Real estate development; residential and commercial land development; building services; construction services; building construction services; construction planning services; building maintenance and repair; custom construction and building renovation; renovation; construction management; developing and building real estate; developing and building commercial, institutional, industrial and residential real estate; construction consultation services; consultancy, advisory and information services relating to the aforesaid services.

The Third Earlier Mark

Class 37

Real estate development; commercial real estate development; residential real estate development including multifamily residential properties; residential and commercial land development; building services; construction services; building construction services; construction planning services; building maintenance and repair; custom construction and building renovation; renovation; construction management; developing and building real estate; developing and building commercial, institutional, industrial and residential real estate; developing and building oil and gas pipelines and storage; developing and building wireless communication towers, broadcast satellites and cable networks; developing and building water and waste water installations and structures; developing and building energy buildings, properties, structures and installations including hydro-electric plants; construction consultation services; consultancy, advisory and information services relating to the aforesaid services.

The Fourth Earlier Mark

Class 37

Real estate development; commercial real estate development; residential real estate development including multifamily residential properties; residential and commercial land development; building services; construction services; building construction services; construction planning services; building maintenance and repair; custom construction and building renovation; renovation; construction management; developing and building real estate; developing and building commercial, institutional, industrial and residential real estate; developing and building oil and gas pipelines and storage; developing and building wireless communication towers, broadcast satellites and cable networks; developing and building water and waste water installations and structures; developing and building energy buildings, properties, structures and installations including hydro-electric plants; construction consultation services; consultancy, advisory and information services relating to the aforesaid services.

The Fifth Earlier Mark

Class 36

Real estate management services; real estate leasing; real estate leasing services for commercial, and residential properties; real estate brokerage services; real estate investment; investment advisory services, namely, real estate, stocks, equities, commodity investment advice, investment management; management services, namely, investment management services; financial services, namely, financial investments in the fields of commodities, gold, investment notes, real estate, securities; investment management in water and waste water; investment services; Investment services in the field of real estate, infrastructure projects, energy infrastructure, real assets, real asset debt, funds, stocks, equity and commodity investment advice; financial management; financial research; investing in oil and gas pipelines and storage; investing in wireless communication towers, broadcast satellites and cable networks; and investment and merchant banking services, including acquisition and disposition financing, mezzanine debt investing; real estate financial advisory services; financial services, namely, asset management services including management of funds and investments with respect to assets including properties, power generation and other infrastructure assets; financial management of investment portfolios, joint ventures and single assets; financial investment services in the field of real estate, infrastructure projects, energy infrastructure, real assets, real asset debt, stocks, equity, commodities gold and investment notes; real estate, securities; financial management; financial research, namely conducting research in the field of financial investments and securities; financial management of investment portfolios, joint ventures and single assets; operation of investment funds; management of portfolios comprising securities; financial analysis and research services; real estate investment; financial investment services for financial institutions, pension plans, insurance companies, for-profit and charitable foundations, endowments, sovereign wealth funds and high net worth investors; real estate, stocks, equities and commodity investment advice services; investment management services; financial research; investment management in real estate; investment management in commercial, institutional, industrial and residential real estate; investment management in oil and gas pipelines and storage; investment management in wireless communication towers, broadcast satellites and cable networks; managing real estate; managing commercial, institutional, industrial and residential real estate; consultancy, advisory and information services relating to the aforesaid services; business management consultancy and advisory services; business management consultancy and advisory services in the field of risk analysis, risk management, risk transfer, financial services, insurance and reinsurance and assurance services; indemnity services; actuarial services; insurance and reinsurance services; risk management services; financial and monetary business services namely, asset management for insurance companies, cash management, reporting, securities lending, investment consulting, asset liability management, integrated risk management, investment and funds management services, comprehensive risk management services focusing on assets and liabilities including combining insurance and reinsurance services with derivative financial instruments, and real estate services; industrial analysis and research services in the field of insurance and reinsurance; insurance underwriting; insurance agencies; insurance actuarial services; insurance financial evaluation for insurance purposes; assessing insurance claims and insurance claims processing; providing insurance information and insurance consultancy; business advisory services and data analytics services, namely, data compiling and analyzing in the fields of insurance, risk management, insurance brokerage, reinsurance, and reinsurance brokerage; financial evaluation of standing timber for others; management of land, namely management of timber properties; consultancy, advisory and information services relating to the aforesaid services.

Class 37

Real estate development; residential and commercial land development; building services; construction services; Building construction services; construction planning services; building maintenance and repair; custom construction and building renovation; renovation; construction management; developing and building real estate; developing and building commercial, institutional, industrial and residential real estate; residential and commercial land development; construction consultation services; developing, and building in commercial, institutional, industrial and residential real estate; real estate development services; developing and building oil and gas pipelines and storage; developing and building wireless communication towers, broadcast satellites and cable networks; developing and building water and waste water installations and structures; developing and building energy buildings, properties, structures and installations including hydro-electric plants; construction consultation services; consultancy, advisory and information services relating to the aforesaid services.

The Sixth Earlier Mark

Class 36

Insurance and reinsurance services; risk management services; financial and monetary business services namely, asset management for insurance companies, cash management, reporting, securities lending, investment consulting, asset liability management, integrated risk management, investment and funds management services, comprehensive risk management services focusing on assets and liabilities including combining insurance and reinsurance services with derivative financial instruments, and real estate services; educational services and training in the field of insurance and reinsurance; industrial analysis and research services in the field of insurance and reinsurance; insurance underwriting; insurance agencies; insurance actuarial services; insurance financial evaluation for insurance purposes; assessing insurance claims and insurance claims processing; providing insurance information and insurance consultancy; business advisory services and data analytics services, namely, data compiling and analyzing in the fields of insurance, risk management, insurance brokerage, reinsurance, and reinsurance brokerage; real estate management services; real estate leasing; real estate leasing services for commercial, and residential properties; real estate brokerage services; real estate investment; investment advisory services, namely, real estate, stocks, equities, commodity investment advice, investment management; investment management services; financial services, namely, financial investments in the fields of commodities, gold, investment notes, real estate, securities; investment management in water and waste water; investment services; Investment services in the field of real estate, infrastructure projects, energy infrastructure, real assets, real asset debt, funds, stocks, equity and commodity investment advice; financial management; financial research; investment in oil and gas pipelines and storage; investment in wireless communication towers, broadcast satellites and cable networks; and investment and merchant banking services, including acquisition and disposition financing, mezzanine debt investing; real estate financial advisory services; financial services, namely, asset management services including management of funds and investments with respect to assets including properties, power generation and other infrastructure assets; financial management of investment portfolios, joint ventures and single assets; operation of investment funds; financial investment services in the field of real estate, infrastructure projects, energy infrastructure, real assets, real asset debt, stocks, equity, commodities gold and investment notes; real estate, securities; financial management; financial research, namely conducting research in the field of financial investments and securities; financial management of investment portfolios, joint ventures and single assets; operation of investment funds; management of portfolios comprising securities; financial analysis and research services; real estate investment; financial investment services for financial institutions, pension plans, insurance companies, for-profit and charitable foundations, endowments, sovereign wealth funds and high net worth investors; real estate, stocks, equities and commodity investment advice services; investment management services; financial research; investment management in real estate; investment management in commercial, institutional, industrial and residential real estate; investment management in oil and gas pipelines and storage; investment management in wireless communication towers, broadcast satellites and cable networks; managing real estate; managing commercial, institutional, industrial and residential real estate; consultancy, advisory and information services relating to the aforesaid services; business management consultancy and advisory services; business management consultancy and advisory services in the field of risk analysis, risk management, risk transfer, financial services, insurance and reinsurance and assurance services; indemnity services; actuarial services.