O/0790/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NUMBER 4238399

BY LEO REGTECH LIMITED

TO REGISTER THE FOLLOWING TRADE MARK:

EVA

IN CLASSES 9, 42 & 45

AND

THE OPPOSITION THERETO UNDER NUMBER 600003916

BY NOVI LIMITED

Background and pleadings

1. On 23 July 2025, Leo Regtech Limited ("the applicant") applied to register the trade mark "EVA" ("the contested mark") in the UK. It was published in the Trade Marks Journal on 3 October 2025. The following goods and services were filed under the mark:

> *Class 9: Software; artificial intelligence software; compliance software; dashboard software; platform software; file management software; business management software; financial management software; training software; utility software; office software; communication software; publishing software; reporting software; interface software; all of the aforesaid goods relating to corporate financial services and financial regulatory compliance.*

> *Class 42: Software authoring; software creation; software design; software development; software engineering; software research; software installation; software as a service [SaaS]; artificial intelligence as a service (AIAAS); platforms for artificial intelligence as software as a service [SaaS]; providing artificial intelligence computer programs on data networks; all of the aforesaid goods relating to corporate financial services and financial regulatory compliance.*

> *Class 45: Software licensing; consultation in relation to data protection compliance; reviewing standards and practices to assure compliance with laws and regulations.*

2. On 5 January 2026, Novi Limited ("the opponent") opposed the trade mark under the Fast Track opposition procedure, based upon Section 5(2)(b) of the Trade Marks Act 1994 ("the Act"). The opposition is aimed at all the goods and services in classes 9 and 42, with class 45 being unopposed.[1] The opposition is on the basis of its earlier UK trade marks:

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[1] During the proceedings, the registered goods and services were limited using a Form TM21B. The opponent originally opposed all of the goods and services under classes 9 and 42. The opponent did not inform the Tribunal of any change in their opposition, so I have determined that the limited goods and services under these classes are still opposed.

1. EVA

UK registration number: UK00003963806

Filing date: 4 October 2023

Registration date: 3 October 2025

“The opponent’s earlier ‘806 registration”

2. EVA AI

UK registration number: UK00003963824

Filing date: 4 October 2023

Registration date: 3 October 2025

“The opponent’s earlier ‘824 registration”

3. Both of the opponent’s marks are registered for the following goods and services, all of which are relied upon:

> *Class 9: Artificial intelligence software for personal use and entertainment; artificial intelligence application (App) software for personal communication and interaction with artificial intelligence; mobile App that allows users to communicate with artificial intelligence for entertainment purposes; mobile chatbot software for simulating conversations.*
>
> *Class 41: Interactive entertainment services being provided with and/or by artificial intelligence for personal use; visual and audio entertainment services provided with and/or by artificial intelligence; visual and audio entertainment services provided using artificial intelligence software.*

4. By virtue of their earlier filing dates, the opponent's above registrations constitute earlier marks in accordance with section 6 of the Act. As the opponent's earlier registrations had not been registered for more than five years before the filing date of the applicant's mark, they are not subject to the use provisions set out in section 6A of the Act.

5. The opponent claims that the respective goods and services are identical or highly similar and that the marks are highly similar, and that, as such, there will be a likelihood of confusion between the marks.

6. The applicant filed a counterstatement in which it denies that the respective goods are identical and/or highly similar and denies that the opponent's marks are highly similar to the contested mark.

7. Rule 6 of the Trade Marks (Fast Track Opposition) (Amendment) Rules 2013, S.I. 2013 2235, disapplies paragraphs 1-3 of Rule 20 of the Trade Mark Rules 2008, but provides that Rule 20(4) shall continue to apply. Rule 20(4) states that: "(4) The registrar may, at any time, give leave to either party to file evidence upon such terms as the registrar thinks fit." The net effect of these changes is to require the parties to seek leave in order to file evidence in fast track oppositions. However, no leave was sought to file any evidence in respect of these proceedings.

8. Rule 62(5) (as amended) states that arguments in fast track proceedings shall be heard orally only if (i) the Office requests it or (ii) either party to the proceedings requests it and the registrar considers that oral proceedings are necessary to deal with the case justly and at proportionate cost; otherwise, written arguments will be taken.

9. The opponent is represented by Lara Grant. The applicant is represented by MW Trade Marks Limited.

10. A hearing was neither requested nor considered necessary; however, the opponent filed submissions in lieu. This decision is taken following a careful consideration of the papers.

11. 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.

Section 5(2)(b)

12. Section 5(2)(b) of the Act states:

> "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."

Section 5A

13. Section 5A of the Act states:

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

The principles

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

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

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

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

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

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

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

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

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

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

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

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

Comparison of goods and services

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

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

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

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

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

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

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

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

(f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.

17. I bear in mind the comments of Mr Iain Purvis KC, sitting as Deputy High Court Judge in *Unicorn Studio Inc v Veronese (Société par Actions Simplifée)* [2024] EWHC 1098 (Ch). He reiterated that the overall purpose of considering similarity between goods is to identify similarities which might be relevant to the likelihood of confusion, and that the greater the level of generality at which some similarity can be found, the less relevant it could be.

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

Opponent's goods and services:[2]	**Applicant's contested goods and services:**
Class 9: Artificial intelligence software for personal use and entertainment; artificial intelligence application (App) software for personal communication and interaction with artificial intelligence; mobile App that allows users to communicate with artificial intelligence for entertainment purposes; mobile chatbot software for simulating conversations. *Class 41: Interactive entertainment services being provided with and/or by artificial intelligence for personal use; visual and audio entertainment services provided with and/or by artificial intelligence; visual and audio entertainment services provided using artificial intelligence software.*	*Class 9: Software; artificial intelligence software; compliance software; dashboard software; platform software; file management software; business management software; financial management software; training software; utility software; office software; communication software; publishing software; reporting software; interface software; all of the aforesaid goods relating to corporate financial services and financial regulatory compliance.* *Class 42: Software authoring; software creation; software design; software development; software engineering; software research; software installation; software as a service [SaaS]; artificial intelligence as a service (AIAAS); platforms for artificial intelligence as software as a service [SaaS]; providing artificial*

[2] The goods and services registered, and relied upon, are identical for both of the opponent's earlier registrations.

	intelligence computer programs on data networks; all of the aforesaid goods relating to corporate financial services and financial regulatory compliance.

Class 9

Software; Artificial intelligence software; all of the aforesaid goods relating to corporate financial services and financial regulatory compliance

19. The above goods are most similar to the opponent's 'artificial intelligence software for personal use and entertainment'. Whilst the nature of the goods overlaps to the extent that both encompass or can encompass artificial intelligence software, their purpose differs significantly. Further, I do not consider the method of use to overlap to any meaningful degree. Although both may be downloaded or installed onto a device, the applicant's goods are used in the context of corporate financial services and regulatory compliance, whereas the opponent's goods are used for personal entertainment purposes. The users differ as the above services will be used by business professionals, while the opponent's goods will be used by members of the general public. Trade channels are unlikely to overlap as the above goods are highly specialised due to being obliged to conform to regulatory compliance requirements. These goods are therefore likely to be sold by specialised software providers, while the opponent's goods will be sold by software providers aimed at the general public. I find no competition between the goods as a consumer needing to comply to regulatory compliance rules would not purchase software that was not regulatory compliant, and a member of the general public would not purchase regulatory compliant software for personal use or entertainment. There is no complementarity. I remind myself of the finding that the greater the level of generality at which some similarity can be found, the less relevant it could be.[3] Taking into account the limited overlap in nature and method of use, I do not consider that this is sufficient to warrant a finding of similarity on this basis alone. To find otherwise would mean that it could be argued that all types of AI software are similar despite having different purposes, user bases and trade channels. In my view, this offers a scope of protection that is far too broad. As such, I

[3] *Unicorn Studio Inc v Veronese (Société par Actions Simplifée)* [2024] EWHC 1098 (Ch)

consider the above goods to be dissimilar to the opponent's 'artificial intelligence software for personal use and entertainment'.

Communication software; all of the aforesaid goods relating to corporate financial services and financial regulatory compliance

20. The above goods are most similar to the opponent's 'artificial intelligence application (App) software for personal communication and interaction with artificial intelligence'. The users of the goods differ as the above goods will be used by professionals in corporate financial services and regulatory compliance, while the opponent's goods will be used by the general public. The nature of the goods very broadly overlaps as both are software designed to facilitate communication. However, their nature significantly differs as the above goods are designed to facilitate user-to-user communication within a financial field and are designed to comply with regulatory requirements, while the opponent's goods are designed to facilitate user-to-artificial intelligence communication by the general public, which would not comply with financial regulatory requirements. The purpose of the goods differs as the above goods are intended to enable user-to-user business communications and information exchange in the context of corporate financial activities and regulatory obligations, while the opponent's goods are intended to enable users to communicate with an artificial intelligence for a broad range of purposes, including entertainment, conversation and task support. Trade channels are unlikely to overlap as the above goods are highly specialised due to being required to conform to regulatory compliance requirements. These goods are therefore likely to be sold by specialised software providers on a business-to-business basis, while the opponent's goods will be sold by software providers aimed at the general public. I find it unlikely that a member of the general public would opt to purchase the above goods as they are highly specialised for financial services and therefore only of interest to users working in this field. I also find it highly unlikely that a financial corporation would opt to purchase the opponent's goods as these goods are not compliant with financial regulatory requirements and will not be suitable. As such, I find no competition between the goods. There is no complementarity. Although I have found some degree of overlap due to both goods being software facilitating communication, I do not find this overlap to be particularly meaningful as the type of communication the goods

facilitate differs significantly, and the users and trade channels are entirely distinct. I remind myself again of the finding that the greater the level of generality at which some similarity can be found, the less relevant it could be.[4] Overall, I consider the above goods to be dissimilar to the opponent's 'artificial intelligence application (App) software for personal communication and interaction with artificial intelligence'.

Compliance software; dashboard software; platform software; file management software; business management software; financial management software; training software; utility software; office software; publishing software; reporting software; interface software; all of the aforesaid goods relating to corporate financial services and financial regulatory compliance

21. The above goods are all software for financial purposes. They are most similar to the opponent's 'artificial intelligence software for personal use and entertainment'. While the goods all fall within the broad category of software, they differ in terms of their specific functionality. The purpose of the goods differs as the above goods are software for managing and facilitating financial services, while the opponent's goods are software for personal use and entertainment. The users differ as the above goods will be used by professionals in corporate financial services and regulatory compliance, while the opponent's goods will be used by the general public. Trade channels are unlikely to overlap as the above goods are highly specialised and are required to conform to regulatory compliance requirements. These goods are therefore likely to be sold by specialised business to business software providers, while the opponent's goods will be sold by software providers aimed at the general public. There is no competition or complementarity. Overall, I consider the above goods to be dissimilar to the opponent's 'artificial intelligence software for personal use and entertainment'.

<u>Class 42</u>

22. In its pleadings, the opponent refers to a decision in which the Hearing Officer found identity, or a level of similarity, between types of software or computer programs and software as a service (SaaS), due to SaaS being "a broad term that has not been

[4] *Unicorn Studio Inc v Veronese (Société par Actions Simplifée)* [2024] EWHC 1098 (Ch)

limited in any way".[5] As noted above, the contested services in the present proceedings have since been limited to relate only to 'corporate financial services and financial regulatory compliance'. As such, this finding is not directly relevant to these proceedings.

Software authoring; software creation; software design; software development; software engineering; software research; software installation; all of the aforesaid goods relating to corporate financial services and financial regulatory compliance

23. The above services are most similar to the opponent's 'artificial intelligence software for personal use and entertainment'. The nature and purpose both differ as the above services relate to the creation of software for managing and facilitating financial services, while the opponent's goods are software for personal use and entertainment. The method of use differs as the above services would likely involve consultation with a client, while the opponent's goods would be downloaded or installed to a user's personal device. The users differ as the above services will be used by professionals in corporate financial services and regulatory compliance, while the opponent's goods will be used by the general public. Trade channels are unlikely to overlap as the above services are highly specialised due to needing to conform to regulatory compliance requirements. These services are therefore likely to be sold by specialised software providers, while the opponent's goods will be sold by software providers aimed at entertainment purposes. There is no competition or complementarity. Overall, I consider the above services to be dissimilar to the opponent's 'artificial intelligence software for personal use and entertainment'.

Software as a service [SaaS]; artificial intelligence as a service (AIAAS); platforms for artificial intelligence as software as a service [SaaS]; providing artificial intelligence computer programs on data networks; all of the aforesaid goods relating to corporate financial services and financial regulatory compliance

24. The above services are most similar to the opponent's 'artificial intelligence software for personal use and entertainment'. The nature broadly overlaps as the above services include providing AI software. I note that one is a good while the other

[5] Decision BL O/425/22

is a service, resulting in a clear distinction between their natures. The purposes differ as the above services relate to the creation of software for managing and facilitating financial services, while the opponent's goods are software for personal use and entertainment. The users differ as the above services will be used by professionals in corporate financial services and regulatory compliance, while the opponent's goods will be used by the general public. Trade channels are unlikely to overlap as the above services are highly specialised due to needing to conform to regulatory compliance requirements. These services are therefore likely to be sold by specialised software providers, while the opponent's goods will be sold by software providers aimed at entertainment purposes. Although the above services and the opponent's goods both incorporate AI, I do not consider there to be competition due to the differences in users and purposes. There is no complementarity. Overall, I consider the above services to be dissimilar to the opponent's 'artificial intelligence software for personal use and entertainment'.

Conclusion of goods and services comparison

25. There can be no likelihood of confusion in respect of section 5(2)(b) of the Act regarding the applicant's goods and services which were found to be dissimilar to the opponent's goods.[6] In light of my findings above, the present opposition fails against all of the opposed goods and services.

Final Remarks

26. The opposition under sections 5(2)(b) fails in its entirety and, subject to any successful appeal, the applicant's mark is permitted to proceed to registration in respect of all of the goods and services applied for.

COSTS

27. The applicant has achieved success in these proceedings and is therefore entitled to a contribution towards its costs. In the circumstances, I award the applicant the sum of **£250** as a contribution towards the cost of the proceedings, in accordance with

[6] *eSure Insurance v Direct Line Insurance,* [2008] ETMR 77 CA

Tribunal Practice Notice 1/2023 which governs costs in Fast Track proceedings issued after 1 February 2023. The sum is calculated as follows:

Considering a notice of opposition and filing a counterstatement:	£250
Total:	**£250**

28. I therefore order Novi Limited to pay Leo Regtech Limited the sum of **£250**. The above sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 30th day of August 2026

K HAZLEBACH

For the Registrar