O/0822/25

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. UK00003944933
BY DYNOTHERM LIMITED
TO REGISTER:

SUPERHUMAN

AS A TRADE MARK IN CLASS 5

AND

IN THE MATTER OF THE OPPOSITION THERETO
UNDER NO. 444430
BY SUPERHUMAN, INC

BACKGROUND AND PLEADINGS

1. On 13 August 2023, DYNOTHERM LIMITED ("the applicant") applied to register the trade mark shown on the cover page of this decision, in the UK. The application was accepted and published in the Trade Marks Journal on 01 September 2023 in respect of the following goods:

> **Class 5:** *Nutritional supplements; Dietary food supplements; Fitness and endurance supplements; Food supplements; Mineral supplements; Protein supplements; Dietary supplements; Protein dietary supplements; Nutritional supplement energy bars; Nutritional supplement food bars; Nutritional supplement meal replacement bars for boosting energy; Caffeine preparations for stimulative use; Powdered nutritional supplement drink mix; Casein dietary supplements; Vitamin supplements; amino acid and protein preparations and substances; Mineral supplements; dietetic food and substances adapted for medical use; Food supplements for nutritional purposes.*

2. On 01 December 2023, the application was opposed by SUPERHUMAN, Inc ("the opponent") based upon Sections 5(1), 5(2)(a) and 5(4)(a) of the Trade Marks Act 1994 ("the Act"). The opponent relies on the following trade marks and all of the goods covered by the same, as shown below:

UK00003972593 SUPERHUMAN Filing date: 21 December 2022 Registration date: 10 November 2023 **Class 5:** *Dietary food supplements; Food supplements; Dietary supplements; Protein dietary supplements; Nutritional supplement meal replacement bars for boosting energy; Caffeine preparations for stimulative use; Casein dietary supplements.*

Class 30: *Cereal based energy bars; High-protein cereal bars; Ice cream; Chocolate; Chocolate confectionery; Candy; Sweets; Coffee; Coffee beverages; Cocoa beverages; Edible ices; Coffee extract; Chocolate beverages; Tea.* **Class 32:** *Concentrates for use in the preparation of sports drinks.*
UK00003861433 SUPERHUMAN Filing date: 21 December 2022 Registration date: 07 March 2025 **Class 5:** *Nutritional supplements; Fitness and endurance supplements; Mineral supplements; Protein supplements; Nutritional supplement energy bars; Nutritional supplement food bars; Powdered nutritional supplement drink mix; Protein powder dietary supplements.* **Class 30:** *Cereal bars and energy bars; Chocolate-based meal replacement bars.*

3. By virtue of their earlier filing dates, the trade marks relied upon by the opponent are "earlier marks" in accordance with Section 6 of the Act. As the opponent's earlier marks had not been registered for five years or more at the filing date of the applied-for mark, they are not subject to the use conditions under Section 6A of the Act. Consequently, the opponent may rely on all of the goods it has identified without demonstrating that it has used the marks.

4. Under Sections 5(1) and 5(2)(a), the opponent claims there is a likelihood of confusion because the marks are identical, and the goods are identical or similar.

5. Under Section 5(4)(a), the opponent relies on the sign 'SUPERHUMAN' which it claims to have used throughout the UK since at least 2019. The opponent claims to have used the sign in relation to "*nutritional, dietary and protein supplements, including in powdered form"* and to have *"established a significant trading goodwill in the UK in*

their business under the trade mark SUPERHUMAN selling nutritional and dietary supplement products" since 2019. As a result, and in light of the claimed identity of the parties' mark/signs and the identity/similarity of the goods, the opponent claims that the relevant public will mistakenly believe that the goods offered by the proprietor are those of the applicant. The applicant claims that this misrepresentation will lead to damage.

6. The applicant filed a counterstatement, stating as follows:

> *"The opponent's mark is not identical as it does not include (within class 5):*
> *protein supplements*
> *powdered nutritional supplement drink mix*
> *amino acid and protein preparations and substances*
> *mineral supplements*
> *vitamin supplements"*

7. In addition, the applicant states that it is empowered and licensed to use the mark 'SUPERHUMAN' within the UK via *"a 2023 agreement from the original trade mark owner which pre-dates the [opponent's] application*." The applicant also alleges that the opponent applied to register the mark 'ALPHA LION' in 2023 in the UK under no. 3860333 and that, contrary to what the opponent claimed in its statement of grounds, it did not own the mark 'SUPERHUMAN' in 2019 because it was not incorporated at that date, hence, it could not have had any goodwill in the UK at (or since) that date. Lastly, the applicant states as follows:

> *"…The opponent Superhuman INC is a trading entity of Alpha Lion. This organisation has a negative reputation due to claims within the US that their products can induce or promote infertility (evidence/court docs will be provided). The company have decided to rebrand themselves as 'SUPERHUMAN' however they did not formally attempt to register a mark until 2023 and this has been opposed. This organisation has zero reputation within the UK as SUPERHUMAN and they do not market products remotely similar to us as they trade as ALPHA LION with ridiculous & comedy style product names that do not represent our upmarket client base or target audience."*

8. Having reviewed the counterstement, the examiner considered that what had been filed failed to address some of the opponent's claims, namely, the similarity/identity of the respective goods and the existence of misrepresentation and damage under Section 5(4)(a). Accordingly, on 04 March 2024 the examiner wrote to the applicant requesting an amended Form TM8 to be filed by 25 March 2024. Nothing was received by this deadline and a further period of 14 days until 17 April 2024 was allowed for the applicant to file an amended counter statement. Having received no response from the applicant, the Form TM8 was further reviewed by a senior officer, and it was considered that it could be admitted into the proceedings.

9. The opponent is represented by Indelible IP Limited. The applicant is not represented. Only the opponent filed evidence. Neither party requested a hearing, but the opponent filed written submissions in lieu. I make this decision having taken full account of all the papers, referring to them as necessary.

THE EVIDENCE

10. The opponent filed evidence in the form of the witness statement of Tristan Stent dated 12 July 2024 with 14 exhibits, being those labelled TS1-14.

RELEVANCE OF EU LAW

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.

PRELIMINARY ISSUES

12. In its counterstatement, the applicant refers to a number of factors which are completely irrelevant to determining the present opposition.

13. First, the issue of earlier use and that of the earlier license agreement has no bearing upon the instant proceedings. Tribunal Practice Notice 4/2009 "*Trade mark opposition and invalidation proceedings – defences"*, under the heading "*The position with regard to defences based on use of the trade mark under attack which precedes the date of use or registration of the attacker's mark",* outlines the approach. It states:

> "4. The viability of such a defence was considered by Ms Anna Carboni, sitting as the appointed person, in *Ion Associates Ltd v Philip Stainton and Another*, BL O-211-09. Ms Carboni rejected the defence as being wrong in law.
>
> 5. Users of the Intellectual Property Office are therefore reminded that defences to section 5(1) or (2) grounds based on the applicant for registration/registered proprietor owning another mark which is earlier still compared to the attacker's mark, or having used the trade mark before the attacker used or registered its mark are wrong in law. If the owner of the mark under attack has an earlier mark or right which could be used to oppose or invalidate the trade mark relied upon by the attacker, and the applicant for registration/registered proprietor wishes to invoke that earlier mark/right, the proper course is to oppose or apply to invalidate the attacker's mark."

14. As far as I am aware, at no time did the applicant seek to invalidate the opponent's earlier mark, thus, the existence of a prior right (even if proven, which in the present case is not, the applicant having elected not to file evidence) is irrelevant to the issue I have to decide.

15. Second, the argument about the opponent's alleged bad reputation associated to a different mark is neither here nor there. The only question here is whether the opponent can rely on an earlier valid mark (which it does) and whether there is a likelihood of confusion.

16. Lastly, since the likelihood of confusion must be assessed by reference to the goods for which the applicant's mark seeks registration and those for which the earlier mark is registered, it follows that the fact that the opponent markets different products under a different mark is immaterial.

17. With this in mind, I turn now to consider the opposition under Sections 5(1) and 5(2)(a).

DECISION

Sections 5(1) and 5(2)(a)

18. Sections 5(1) and 5(2)(a) of the Act read as follows:

> "(1) 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.
>
> (2) 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 or services similar to those for which the earlier trade mark is protected, or
> (b)…
>
> there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark.

19. 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."

20. The following principles are gleaned from the decisions of the EU courts in *Sabel BV v Puma AG,* Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc,* Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV,* Case C-425/98, *Matratzen Concord GmbH v OHIM*, Case C-3/03, *Medion AG v. Thomson Multimedia*

Sales Germany & Austria GmbH, Case C-120/04, *Shaker di L. Laudato & C. Sas v OHIM,* Case C-334/05P and *Bimbo SA v OHIM,* Case C-591/12P:

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

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

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

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

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

(f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

(g) a lesser degree of similarity between the goods or services may be offset by a 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 to mind the earlier mark, is not sufficient;

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

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

Comparison of goods

21. When making the comparison, all relevant factors relating to the goods and services in the specifications should be taken into account. 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 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."

22. Guidance on this issue has also come from Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, where he identified the factors for assessing similarity as:

(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.

23. In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods. In *Boston Scientific Ltd v OHIM***,** Case T-325/06, the GC stated that "complementary" means:

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

24. In *Sanco SA v OHIM,* Case T-249/11, the General Court ("GC") indicated that goods and services may be regarded as 'complementary' and therefore similar to a degree in circumstances where the nature and purpose of the respective goods and services are very different. The purpose of examining whether there is a complementary relationship between goods and services is to assess whether the relevant public are liable to believe that responsibility for the goods and services lies with the same undertaking or with economically connected undertakings. As Mr Daniel Alexander QC noted as the Appointed Person in *Sandra Amelia Mary Elliot v LRC Holdings Limited* BL O/255/13*:*

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

25. Whilst on the other hand:

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

26. In *Gérard Meric v OHIM,* Case T- 133/05, the GC stated that:

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

27. As it will be recalled, the applicant's counterstatement does not address the identity or similarity of the goods. The applicant merely states that *"the opponent's mark is not identical as it does not include goods within class 5".* This is not a denial that the goods are identical or similar. Furthermore, the Tribunal twice invited the applicant to apply to amend its pleadings to put in issue the similarity of goods. In *SKYCLUB* (BL-O-044/21), Mr Phillip Johnson, sitting as the Appointed Person, stated that the principle that where a defendant fails to deal with an allegation it is taken to be admitted (CPR 16.5(5) is applicable in trade mark opposition proceedings. Hence, in this case, the applicant's failure to deal with the similarity of the goods means that the opponent's claim as to their identity and/or similarity is admitted. Having said that, the Form TM7 identifies only the following goods as being identical, namely: *"dietary food supplements", "food supplements", "dietary supplements", "protein dietary supplements", "nutritional supplement meal replacement bars for boosting energy", "caffeine preparations for stimulative use"* and "*casein dietary supplements"* (when comparing the application with the first earlier mark) and *"nutritional supplements",*

"fitness and endurance supplements", "mineral supplements", "protein supplements" "nutritional supplement energy bars", "nutritional supplement food bars" and "powdered nutritional supplement drink mix" (when comparing the application with the second earlier mark).

28. This leaves *Vitamin supplements; amino acid and protein preparations and substances; Mineral supplements; dietetic food and substances adapted for medical use; Food supplements for nutritional purposes.* As regards these goods, the opponent initially states that they are similar, in particular, to its goods in class 5, in that they are all used for nutritional and dietary supplementation and would therefore be competing and sold alongside or in the same retail sections. However, in its written submissions, the opponent additionally argued that they are also identical, falling within the opponent's registered terms.

29. Admittedly, although some of the goods are not identically worded, they fall within the opponent's broader terms *Food supplements; Dietary supplements,* the dictionary definition of *"dietary supplement*" being as follows:[1]

> *"a product containing one or more vitamins, minerals, or other substances that the body needs to be healthy, which someone takes to make sure they have enough of substances that may be missing from the food they eat"*

30. Accordingly, in addition to the goods identified by the opponent as being identical (a claim which I should treat as being admitted), I find that based on the above definition, the following goods in the application are identical to the opponent's *Dietary supplements* (*Meric*)*:*

> *Vitamin supplements; amino acid and protein preparations and substances; Mineral supplements.*

31. Further, I find that the applicant's *Food supplements for nutritional purposes* are identical to the opponent's *Food supplements* (in the first earlier mark). Lastly, I find

[1] Cambridge online dictionary

that the applicant's *dietetic food and substances adapted for medical use,* are identical to the earlier *Food supplements,* the latter being sufficiently broad to encompass *food supplements adapted for medical use.*

32. If I am wrong, and some of the goods are not identical, they are nonetheless highly similar, having the same or a highly similar use, user, nature, purpose, method of use, sharing trade channels and being potentially complementary or in competition.

Comparison of marks

33. Both parties' marks consist of the word 'SUPERHUMAN' presented in upper-case letters. Therefore, the marks are identical.

Conclusion on Section 5(1)

34. Having found that the goods are identical, and the marks are identical, the Section 5(1) ground of opposition must succeed in its entirety.

35. If I am wrong, and some of the goods are highly similar, rather than identical, I will go on to consider the Section 5(2)(a).

Average consumer

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

> "60. The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively

by the court from the point of view of that constructed person. The words "average" denotes that the person is typical. The term "average" does not denote some form of numerical mean, mode or median."

37. The average consumer of the goods is a member of the general public. The purchasing process is likely to be predominantly visual, with the goods predominantly being purchased through websites, or bricks-and-mortar premises. However, as word-of-mouth recommendations may also play a part, I do not discount that there will also be an aural component to the purchase. Although consumers who purchase the goods might be particularly attentive to their dietary needs and lifestyle, the goods are relatively low in price and frequently purchased, and the degree of attention is likely to be medium or slightly above medium.

Distinctive character of the earlier mark

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

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

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as

originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51)."

39. Registered trade marks possess various degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods or services, to those with high inherent distinctive character, such as invented words which have no allusive qualities. The distinctiveness of a mark can be enhanced by virtue of the use made of it.

40. The earlier mark consists of the words 'SUPERHUMAN'. The mark might be understood as alluding to the fact that the goods make the user a superhuman. That said, the mark is not directly descriptive of the goods and, as a registered mark, it must be assumed to have a minimum degree of distinctiveness. In my view, the mark is distinctive to a low to medium degree.

41. Although the opponent has filed evidence of use, that is not particularly strong. First, there are some invoices showing that the goods were shipped to some UK retailers, but the evidence about UK sales figures is unclear. In this connection, having spoken about the UK market, Mr Stent gives some sales figures, but does not definitely say that they are UK specific as he states:

"Superhuman Inc. has undertaken and facilitated orders through wholesale accounts, for the following values since 2019: 2019 – $188.325 ($USD), 2020 – $232,165 ($USD), 2021 – $142,576 ($USD), 2022 – $118,934 ($USD), 2023 - $167,885 ($USD), 2024 (Part) – $60,960 ($USD)".

42. Even if I were to take those sales as being UK sales, the ones for 2023 and 2024 must be discounted, because they are after the relevant date of 13 August 2023. Alternatively, it is impossible to know what proportion of the 2023 figures relate to sales made prior to the relevant date. Consequently, assuming that the figures provided are UK sales, those prior to the relevant date amount to less than $700,00 USD; however, there being no market share, again, it is not clear what proportion of the market this corresponds to.

43. Second, the mark SUPERHUMAN has been used together with the mark Alpha Lion (which is the main brand) and Mr Stent admits that to the date of the witness statement, the opponent had made no direct approach to enter the UK market as an organisation and that the opponent's market presence in the UK is through third-party companies. Lastly, no marketing figures have been provided.

44. Bearing in mind all of the above, I am not persuaded that such level of use would have resulted in the earlier mark acquiring enhanced distinctiveness through use in the UK.

Likelihood of confusion

45. There is no scientific formula to apply in determining whether there is a likelihood of confusion; rather, it is a global assessment where a number of factors need to be borne in mind, including that a lesser degree of similarity between the respective marks may be offset by a greater degree of similarity between the respective goods and vice versa. I must keep in mind the distinctive character of the earlier mark, the average consumer for the goods and the nature of the purchasing process. I must be alive to the fact that the average consumer rarely has the opportunity to make direct comparisons between marks and must instead rely upon the imperfect picture of them that they have retained in their mind.

46. Earlier in this decision I found that:

- The marks are identical.
- The goods are highly similar.
- The goods will be selected visually with an average or slightly above average degree of attention.
- The earlier mark is distinctive to a low to medium degree.

47. Bearing in mind all of the above, I consider that notwithstanding the lower-than-average distinctiveness of the mark, the identity of the marks and the high degree of

similarity of the goods will result in the average consumer being directly confused into thinking that the later goods and the earlier goods are produced by the same undertaking under the same mark. There is a likelihood of confusion.

48. The opposition succeed under Section 5(1) in its entirety. Alternatively, if some goods are not identical but highly similar, the opposition succeeds under Section 5(2)(a).

Section 5(4)(a)

49. I can deal with this ground very briefly. Under this ground, the opponent relies on the sign 'SUPERHUMAN' which is identical to its earlier registered marks. It also claims to have used that sign in relation to *Nutritional, dietary and protein supplements, including in powdered form* which are encompassed by, but are more restricted than, the registered goods, the opponent's registered marks covering broader categories of goods upon which the opponent can rely without showing use or goodwill. Consequently, I shall start with the proposition that even if the opponent was able to establish goodwill, the opposition under the Section 5(4)(a) cannot succeed to a greater extent than that under Sections 5(1) and 5(2)(a).

50. Having said that, the only thing the opponent must show in this case is the existence of goodwill, because misrepresentation and damage are not at issue. The invoices filed show sales in the UK of thousands of pounds worth of nutritional supplements under the brand SUPERHUMAN over a period of 4 years prior to the relevant date. The invoices are addressed to different retailers. Although very concise, this evidence is in my view sufficient to establish an actionable goodwill. As I must treat misrepresentation and damage as admitted, the opposition under section 5(4)(a) is also successful.

OUTCOME

51. The opposition has been successful under both grounds. Subject to any successful appeal against my decision, the contested application will be refused.

COSTS

52. The opponent has been successful and is, therefore, entitled to a contribution towards its costs based upon the scale published in Tribunal Practice Notice 1/2023. In the circumstances, I award the opponent the sum of £1,000, calculated as follows:

Preparing a statement and considering the other side's statement: £300
Preparing evidence and written submissions: £700
Total: £1,000

53. I therefore order DYNOTHERM LIMITED to pay SUPERHUMAN, Inc. the sum of £1,000. 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 9th day of September 2025

TERESA PINTO
For the Registrar