

O-0901-25

TRADE MARKS ACT 1994  
IN THE MATTER OF  
TRADE MARK APPLICATION NOS. 4001374, 4001386, 4001395 & 4002226  
BY CORTLAND HOLDINGS UK LIMITED  
TO REGISTER

**Q1**  
**Q1 Professional**  
**Q1 Professional Services**

The logo consists of the letters 'Q1' in a bold, sans-serif font. The 'Q' is green and the '1' is blue.


Professional  
Services Ltd

AS TRADE MARKS  
IN CLASSES 35, 36, 37, 41, 42 & 45  
AND OPPOSITION THERETO (UNDER NOS.447097, 447098, 447099 & 448169)  
BY  
ARQUIA BANK, S.A.

## Background & Pleadings

1. Cortland Holdings UK Limited (“the applicant”) applied to register the trade marks **Q1**, **Q1 Professional** and **Q1 Professional Services** (“the word marks”) on 12 January 2024. It applied to register the figurative mark set out on the title page of this decision on 15 January 2024. The word marks were published for opposition purposes on 26 January 2024 and the figurative mark on 29 March 2024. All applications were published for the same services in classes 35, 36, 37, 41, 42 and 45, although only class 36 is being opposed in these proceedings namely *Financial services related to real estate; Administration of financial affairs relating to real estate*.

2. Arquia Bank, S.A. (“the opponent”) partially opposes the applications under section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). The opponent initially relied on two earlier registrations, however in an email dated 29 August 2024, the opponent stated its intention to rely on only one earlier registration, namely UK TM no. 3995163, the detail of which is set out below.

Earlier registration:	Services relied on:
 <p data-bbox="204 1536 687 1626">Filing date: 22 December 2023 Registration date: 22 March 2024</p>	<p data-bbox="715 1133 1390 1995">Insurance services; banking; real estate affairs; financial management; administration of savings accounts; administration of funds and investments; pension fund administration services; financial analysis, consulting and advice; consultancy services relating to credit; pension consultancy; financial banking; currency trading; financial evaluation; financial research; facilitating and arranging financing; financial information; financial investment; financial sponsorship and patronage; innovation project funding; venture capital funding services to emerging and start-up companies; funding of studies (scholarships, grants) and training courses; providing educational scholarships; funding for training</p>

	<p>and research projects; arranging of funds for overseas aid projects; investment of funds for charitable purposes; financial grant services; philanthropic services concerning monetary donations; provision of grants for training and research; arranging of financing for humanitarian projects; financial sponsorship of cultural events; arranging of finance for sporting, cultural and entertainment projects; financial planning services; financial, monetary and banking services; financial database services; financial brokerage services; financial rating and credit reports; finance services; financial appraisal services; financial and investment management of funds; monetary affairs; monetary transfer; savings scheme services; provision of information relating to stock broking; venture capital services; investment services; financial transfers and transactions, and payment services; electronic payment services; electronic management of transactions and payments through global computer networks; on-line bill payment services; financing of building projects; arranging finance for construction projects; financial planning services relating to building projects.</p>
--	--

3. The opponent claims that the respective services are either identical or highly similar and that the respective marks are similar. As such there exists a likelihood of confusion, including a likelihood of association, under section 5(2)(b) of the Act.

4. The registration relied on by the opponent is an earlier mark, in accordance with section 6 of the Act. It had not completed its registration process more than five years prior to the application dates of the contested marks. Therefore it is not subject to the proof of use conditions, as per section 6A of the Act.

5. The applicant filed four counterstatements in which it denied the respective marks were similar. However with regard to the services, the applicant states that two of the terms in the opponent's specification are the same as the applicant's services. I will return to this point later in the decision.

6. The proceedings were consolidated under the lead opposition no. 447097 by means of a Tribunal letter dated 17 July 2024.

7. The applicant has represented itself in these proceedings whereas the opponent has been represented by Withers & Rogers LLP. Only the applicant filed evidence in these proceedings and the opponent filed submissions in lieu of a hearing.

8. I make this decision based on a reading of all the material before me.

9. 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 that predate the UK's withdrawal from the EU.

### **Applicant's evidence**

10. The applicant filed a witness statement dated 29 October 2024 in the name of Andrew Bruce, the Counsel General in Europe for the Cortland Group. Mr Bruce attaches 1 exhibit. He states that the applicant started using the applied for marks in or around 20<sup>th</sup> January 2012 and it provides company secretarial services, service charge accounting, and preparation of fire risk and health and safety assessments to residential management companies and freeholders. The remainder of Mr Bruce's

evidence goes to the nature of the opponent's business which appears to be banking, its Spanish website, and that it has no apparent operations in the UK.

11. The applicant states that it does not operate in the same business or even geographical areas as the opponent and refers back to its counterstatement where the same points were made.

12. Even if I accept that the applicant and the opponent currently operate in different areas, this would not be relevant to the issue of confusion which I must decide in these proceedings. It is settled law that in assessing whether there is a likelihood of confusion, I must make my comparison of "notional and fair use"<sup>1</sup> based on the class 36 services covered by the applications and since the earlier mark is not subject to proof of use, the opponent's class 36 services. It is the *inherent* nature of the specifications which I have to consider. Current use and business activities are not relevant to this notional comparison. My task, therefore, is to conduct the comparison simply on the basis of the goods as they are set out in the respective specifications. The concept of notional and fair use is outlined in paragraph 78 of *Roger Maier* decision, viz:

"78. ....the court must.... consider a notional and fair use of that mark in relation to all of the goods or services in respect of which it is registered. Of course it may have become more distinctive as a result of the use which has been made of it. If so, that is a matter to be taken into account for, as the Court of Justice reiterated in *Canon* at paragraph [18], the more distinctive the earlier mark, the greater the risk of confusion. But it may not have been used at all, or it may only have been used in relation to some of the goods or services falling within the specification, and such use may have been on a small scale. In such a case the proprietor is still entitled to protection against the use of a similar sign in relation to similar goods if the use is such as to give rise to a likelihood of confusion."

---

<sup>1</sup> *Roger Maier and Another v ASOS*, [2015] EWCA Civ 220.

## DECISION

### Section 5(2)(b)

13. Section 5(2)(b) of the Act reads as follows:

“5 (2) A trade mark shall not be registered if because -

[...]

(b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected,

there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark”.

14. Section 5A is also relevant and reads:

“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”.

15. The following principles are gleaned from the decisions of the EU courts in *Sabel BV v Puma AG*, Case C-251/95, EU:C:1997:528, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, EU:C:1998:442, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, EU:C:1999:323, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, EU:C:2000:339, *Matratzen Concord GmbH v OHIM*, Case C-3/03, EU:C:2004:233, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C-120/04, EU:C:2005:594, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P, EU:C:2007:333, and *Bimbo SA v OHIM*, Case C-591/12P, EU:C:2016:591:

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

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed

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

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

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

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

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

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

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

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

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

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

### **Comparison of services**

16. In *Canon*<sup>2</sup>, the Court of Justice for the European Union (“CJEU”) stated at paragraph 23 of its judgment:

“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.”

17. Guidance on this issue has also come from Jacob J. (as he then was) in *British Sugar Plc v James Robertson & Sons Ltd* (the *Treat* case)<sup>3</sup>, 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.

---

<sup>2</sup> *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, C-39/97

<sup>3</sup> [1996] R.P.C. 281

18. In addition I find the following case law to be helpful when in *Gérard Meric v Office for Harmonisation in the Internal Market*,<sup>4</sup> the General Court (“GC”) stated that:

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

19. The services to be compared are set out below:

<b>Opponent services</b>	<b>Applicant’s services</b>
<i>Insurance services; banking; real estate affairs; financial management; administration of savings accounts; administration of funds and investments; pension fund administration services; financial analysis, consulting and advice; consultancy services relating to credit; pension consultancy; financial banking; currency trading; financial evaluation; financial research; facilitating and arranging financing; financial information; financial investment; financial sponsorship and patronage; innovation project funding; venture capital funding services to emerging and start-up companies; funding of studies (scholarships, grants) and training courses; providing educational scholarships; funding for training and</i>	<i>Financial services related to real estate; Administration of financial affairs relating to real estate.</i>

---

<sup>4</sup> Case T- 133/05

*research projects; arranging of funds for overseas aid projects; investment of funds for charitable purposes; financial grant services; philanthropic services concerning monetary donations; provision of grants for training and research; arranging of financing for humanitarian projects; financial sponsorship of cultural events; arranging of finance for sporting, cultural and entertainment projects; financial planning services; financial, monetary and banking services; financial database services; financial brokerage services; financial rating and credit reports; finance services; financial appraisal services; financial and investment management of funds; monetary affairs; monetary transfer; savings scheme services; provision of information relating to stock broking; venture capital services; investment services; financial transfers and transactions, and payment services; electronic payment services; electronic management of transactions and payments through global computer networks; on-line bill payment services; financing of building projects; arranging finance for construction projects; financial planning services relating to building projects.*

20. I find that the opponent's terms *real estate affairs* and *financial services* are sufficiently broad and will encompass the applicant's terms *Financial services related*

to real estate; Administration of financial affairs relating to real estate. Therefore the applicant's terms are considered identical on the *Meric* principle.

### **Average consumer and the purchasing process**

21. I next consider who the average consumer is for the services at issue and how they are purchased. It is settled case law that the average consumer is deemed to be reasonably well informed and reasonably observant and circumspect.<sup>5</sup> For the purpose of assessing the likelihood of confusion, it must be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods or services in question.<sup>6</sup>

22. The average consumer for the contested services will be both the general public and businesses. There are a variety of contested services relating to real estate so the price range will likely be towards the expensive end of the scale. The services are likely to be infrequent purchases, but a consumer would have in mind the kind and suitability of the services to be purchased. In my view and given that the services relate to finance and real estate, then the average consumer is likely to pay at least a medium to high degree of attention during the purchasing process.

23. The services are likely to be selected from websites, and advertising material (both printed and online equivalents). Consequently, there will mainly be a visual consideration in the purchasing process. However, I do not discount an aural component, such as receiving financial advice, to the purchase.

### **Mark comparisons**

24. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) 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 impressions created by the trade marks, bearing in mind their distinctive and dominant

---

<sup>5</sup> *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)


<sup>6</sup> *Lloyd Schuhfabrik Meyer*, Case C-342/97.

components. The CJEU stated at paragraph 34 of its judgment in *Bimbo SA v OHIM*<sup>7</sup>, 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.”

25. It would be wrong, therefore, to artificially dissect the trade marks, 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.

26. The respective marks to be compared are:

Opponent's registration	Applicant's marks
	<p data-bbox="810 1191 1262 1352"><b>Q1</b> <b>Q1 Professional</b> <b>Q1 Professional Services</b></p> 

---

<sup>7</sup> Case C-591/12P

27. The opponent's registration is a figurative mark consisting of a stylised representation of a capital letter Q. It has no other aspect to it, so its overall impression derives from this presentation.

28. The applicant's word marks are essentially formed from the same stem namely the capital letter Q and the number 1. This is the entirety of the mark ending '374. In my view neither the letter or number element dominate, and both make an equal contribution to the mark's overall impression. For the marks ending '386 and '395 the **Q1** element is followed by the words **Professional** and **Professional Services** respectively. To my mind, these words are much weaker in distinctiveness and the **Q1** element will be the dominant and distinctive element in the overall impression

29. The applicant's figurative mark ending '226 consists of a vertical presentation where the letter and number **Q1** are depicted in a stylised font in green and blue respectively. The **Q1** element is positioned above the word **Professional** which itself is positioned above the words **Services Ltd**. As previously stated, I consider **Professional** and **Services** to be weakly distinctive at best and **Ltd** is the usual shortform designation for a limited company. In addition to its size and scale within the mark, I consider that the **Q1** element will be the dominant and distinctive element in the overall impression

30. In a visual comparison, all marks contain a capital letter **Q**, albeit that the opponent's letter **Q** is somewhat stylised whereas the applicant's is a standard typeface capital. The points of difference, in addition to the stylisation mentioned above, is the additional element in the applicant's marks namely the number **1**, as well as the words **Professional**, **Services** and **Ltd** which have no counterpart in the opponent's mark. Taking all this in account, I find that there is a low degree of visual similarity between the respective marks.

31. In an aural comparison, a consumer would verbalise the letter **Q** in the same way for all marks. The points of difference would again arise from the additional elements in the applicant's marks. It is likely that the **Q1** element would be verbalised in full, whereas it may be less likely that the additional words in the applicant's marks namely **Professional**, **Services** and **Ltd** would all be verbalised. Where they are verbalised

then I find the aural similarity would be low. If they are not verbalised but only **Q1** is, then the level of aural similarity is at a medium degree.

32. In a conceptual comparison, the opponent's mark will bring to mind the 17<sup>th</sup> letter of the alphabet. The applicant's '374 mark will bring to mind the same letter concept but then the concept is added to by the number 1. The applicant's additional word elements are all known dictionary words and will bring to mind those meanings. I find that for the applicant's '386 mark containing **Professional** and its '395 mark containing **Professional Services**, these words are likely to be seen as being qualified by the letter and number **Q1**, that is to say **Q1** is related to the provision of the professional services. Finally with regard to the applicant's figurative '226 mark, the addition of the shortform word **Ltd** will likely give the concept of the whole being a company name.

33. Overall I find that any conceptual similarity resides only in the letter Q but that the applicant's additional elements could give rise to different concepts. Therefore the level of conceptual similarity is low.

#### **Distinctive character of the earlier registered trade mark**

34. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive of a characteristic of the goods, 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.

35. In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*,<sup>8</sup> 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-

---

<sup>8</sup> Case C-342/97

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)."

36. As no evidence was filed by the opponent in these proceedings, I can only consider the inherent distinctiveness of the earlier registration. It consists of a stylised representation of the capital letter Q, which has no meaning in relation to the services for which it is registered. However it is a single letter of the alphabet, which is not all that remarkable or striking, although it has some stylisation. Overall I find it to be inherently distinctive to a medium degree.

### **Likelihood of confusion**

37. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other, while indirect confusion is where the average consumer realises the marks are not the same but puts the similarity that exists between the marks and the goods and services down to the responsible undertakings 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 factors are interdependent, and include the principle that a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective goods and services and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the opponent's registrations, the average consumer for the goods and the nature of the purchasing process. In doing so, I must be alert to

the fact that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them that they have retained in their mind.

38. In *L.A. Sugar Limited*,<sup>9</sup> Iain Purvis K.C. sitting 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.).

---

<sup>9</sup> *L.A. Sugar Limited v By Back Beat Inc*, Case BL O/375/10

(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).”

39. I bear in mind that the categories listed above in *L.A. Sugar* are not an exhaustive list of all the ways in which indirect confusion can occur. They are merely examples of the way in which it could or tends to occur.

40. In *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors*,<sup>10</sup> Arnold LJ approved Mr Purvis’s formulation but added:

“13. As James Mellor QC sitting as the Appointed Person pointed out in *Cheeky Italian Ltd v Sutaria (O/219/16)* at [16] ‘a finding of a likelihood of indirect confusion is not a consolation prize for those who fail to establish a likelihood of direct confusion’. Mr Mellor went on to say that, if there is no likelihood of direct confusion, ‘one needs a reasonably special set of circumstances for a finding of a likelihood of indirect confusion’. I would prefer to say that there must be a proper basis for concluding that there is a likelihood of indirect confusion given that there is no likelihood of direct confusion.”

41. However it is also settled case law that it is not sufficient to find a likelihood of confusion if a mark merely calls to mind another mark<sup>11</sup>. This is considered mere association not indirect confusion.

42. So far in this decision I have found:

- The services are identical.
- The average consumer would pay a medium to high degree of attention in a primarily visual purchasing process, although an aural component cannot be discounted.
- There is low degree of visual similarity between the respective marks.
- There is a medium degree of aural similarity between the opponent’s mark and the applicant’s ‘374 mark, but the degree of similarity is lower if all words are verbalised in the applicant’s other marks.

---

<sup>10</sup> [2021] EWCA Civ 1207

<sup>11</sup> *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17

- There is a low degree of conceptual similarity based only on the Q element.
- The opponent's earlier registration is inherently distinctive to a medium degree.

43. The respective marks contain the capital letter Q. However, I find this similarity is heavily outweighed by the differences, namely the additional elements in the applicant's marks, especially the number 1. These additional elements will not go unnoticed, and they are sufficient, in my view, for the average consumer not to directly confuse the marks, that is to mistake one mark for another, even where the services are identical.

44. Having found that there is no likelihood of direct confusion, I now consider whether there is any indirect confusion. I remind myself of the guidance given in *L.A. Sugar* that indirect confusion requires a consumer to undertake a thought process whereby they acknowledge the differences between the marks yet attribute the common element to a shared undertaking, taking one mark to be a possible brand extension or sub brand of the other mark.

45. In its written submissions, the opponent submits that,

“...consumers may consider that use of the numeral 1 relates to a sequence of offerings by the applicant as Q1, Q2, Q3 and that these are simply extensions or sub brands of the offering by the opponent”.<sup>12</sup>

46. I acknowledge the opponent's submission on this point, but I disagree. To my mind the marks Q and Q1 have only the letter concept in common but the applicant's mark is a letter and number combination so has a different conceptual hook. Moreover I do not think that the addition of the number 1 falls under the (b) or (c) categories set out above in *L.A. Sugar*. I previously found that both Q and 1 made an equal contribution to the overall impression. Consequently I do not see the addition of the number 1 as being a non-distinctive element and as such I do not see it being a logical and consistent brand extension but rather referring back to services being provided by a Q1 brand that is independent of the opponent's Q brand. The applicant's figurative mark is that of a company name where the company is identified by the Q1 element. As such I do not find the average consumer, paying a medium to high level of attention

---

<sup>12</sup> Opponent's written submissions, paragraph 25.

during purchase, is likely to be confused into believing that respective services come from the same or economically linked undertakings. I find there is no likelihood of indirect confusion.

### **Conclusion**

47. The opposition brought under section 5(2)(b) is unsuccessful. Subject to any appeal of this decision, the applications may proceed to registration.

### **Costs**

48. The applicant has been successful, so it is entitled to a contribution towards the costs incurred in these proceedings. Awards of costs are governed by Annex A of Tribunal Practice Notice (TPN) 1/2023. Bearing in mind the guidance given in this TPN, but being mindful that the applicant's evidence did not assist me in my findings, I award costs as follows:

#### **£400 Considering the Notices of Opposition and filing counterstatements.**

49. I order Arquia Bank, S.A. to pay Cortland Holdings UK Limited the sum of £400. This sum is to be paid within 21 days of the expiry of the appeal period or within 21 days of the final determination of this case if any appeal against this decision is unsuccessful.

**Dated this 29<sup>th</sup> day of September 2025**

**June Ralph**

**For the Registrar**

**The Comptroller-General**