O/0953/26

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. 4268080
IN THE NAME OF PEOPLE COMBINE BASICS PRIVATE LIMITED

TO REGISTER THE FOLLOWING TRADE MARK:



IN CLASSES 9, 41 AND 42

AND

IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 459169
BY SCHOOLY SOLUTIONS LTD

Background and pleadings

1. On 23 September 2025, People Combine Basics Private Limited ("the applicant") applied to register the trade mark as shown on the front page of this decision. It was accepted and published on 3 October 2025 in respect of the following goods and services:

   Class 9: Education software; Interactive education software; Downloadable educational media; Educational mobile applications; Educational computer applications; Educational mobile apps; Digital educational materials; Electronic educational materials; Electronic educational materials (downloadable); Educational software for children; Mobile applications; Mobile application software; Mobile telecommunications apparatus; Downloadable software applications for mobile telephones; Downloadable mobile phone software applications; Teaching apparatus; Audiovisual apparatus; Mobile apps; Application software; Software and applications for mobile telephones; Application software for smartphones; Computer software; Computer software (downloadable); Data processing apparatus; Computers; Global Positioning Systems (GPS).

   Class 41: Education services; Business educational services; Academic examination services; Education and training services; Educational services provided by institutes of further education; Educational services relating to business; Educational services provided by institutes of higher education; Conducting of instructional, educational and training courses for young people and adults; Research in the field of education; Educational testing; Education, entertainment and sport services; Boarding school education; Education and instruction services; Physical education services; Education academy services; Educational research; Computer education training services.

   Class 42: Hosting multimedia educational content; Certification of educational services; Rental of application software; Creating an online community for registered users to form virtual communities and engage in social networking

services in the field of education; Hosting multimedia entertainment and educational content for others; Providing technology consulting in the field of social media; Rental of memory space on servers for the interaction of social networking service users on the internet; Technical studies; Technological studies; Providing scientific studies; Organization of technical project studies; Arranging technological project studies; Computer software rental; Rental of data processing devices and computers.

2. On 30 December 2025, Loven Patents and Trademarks Limited filed a Form TM7 ("Notice of opposition and statement of grounds") on behalf of Schooly Solutions Ltd ("the opponent"). The opposition was brought under section 5(2)(b) of the Trade Marks Act 1994 ("the Act") and was directed against all the goods and services in the application.

3. On 13 January 2026, the Tribunal served the TM7 on the applicant, by post and by email to the recorded representative of the applicant, Nagaraja BS. In accordance with Rules 18(1) and 18(3) of the Trade Marks Rules 2008 ("the Rules"), the applicant was informed that it had two months from the date of the letter by which to file its Form TM8 and counterstatement. The date for the filing of Form TM8 was given as 13 March 2026. In addition, the consequences of failing to file a Form TM8 were outlined. The pertinent paragraphs of the letter are as follows:

"**Your options**

1. Defend your application
Complete and send to us Form TM8 and counterstatement.

This must be filed (i.e. received by us) within **two months** from the date of this letter; that is on or before **13 March 2026**.

When completing the counterstatement you must admit (agree) or deny (disagree) each of the grounds of opposition.

It is important to understand that if the deadline date is missed then, in almost all circumstances, the application will be treated as abandoned in accordance with Rule 18(2) of the trade mark Rules 2008: "where the applicant fails to file a Form TM8 and counter-statement within the relevant period, the application for registration, insofar as it relates to the goods and services in respect of which the opposition is directed, shall, unless the registrar otherwise directs, be treated as abandoned."
(original emphasis)

4. As no response was received, on 26 March 2026 an official letter was issued to the applicant, and copied to the opponent, with the relevant part reading as follows:

"Our letter dated 13 January 2026 invited you to file a Form TM8 and counterstatement on or before **13 March 2026.**

As no Form TM8 and counterstatement has been filed within the time period set, Rule 18(2) of the Trade Mark Rules 2008 (as amended) applies. Rule 18(2) states:

> "Where the applicant fails to file a Form TM8 or counterstatement within the relevant period, the application for registration, insofar as it relates to the goods and services in respect of which the opposition is directed, shall, unless the registrar otherwise directs, be treated as abandoned."

It is our preliminary view that the application should be treated as abandoned because no defence was filed by the deadline referred to above.

If you disagree with the preliminary view, you **must** file the Form TM8 and counterstatement **and** a witness statement setting out the reasons for the failure to meet the deadline on, or before, **9 April 2026.**

If no response is received by this date, the application will be treated as abandoned (i.e. it will be withdrawn)"
(original emphasis)

5. On 4 April 2026, the applicant filed a Form TM8 and counterstatement together with a witness statement in the name of Naga Prasad, a director of the applicant. Although the witness statement was signed, the statement of truth was not dated. A dated version of the statement of truth was subsequently filed on 30 April 2026.

6. Mr Prasad's witness statement began by requesting an extension of time under Rule 77(1) to file evidence in reply. The statement went on to explain that the applicant was unable to meet the deadline for filing its evidence in reply because, on or around 2 March 2026, it suffered a critical and unexpected failure of its cloud server infrastructure, resulting in the loss of access to business records and other documents said to be necessary for the preparation of its evidence. Mr Prasad stated that, despite engaging IT specialists immediately and attempting to reconstruct the relevant material from alternative sources, the recovery process took approximately three to four weeks and access to the core documentation was not restored until after the deadline had passed. He submitted that these circumstances were exceptional, were not caused by any lack of diligence on the applicant's part, and that granting an extension would not materially prejudice the opponent. He further stated that the relevant files had now been recovered and that the applicant was in a position to finalise and file its evidence without further delay.

7. In light of Mr Prasad's comments, an official letter was issued to the applicant, and copied to the opponent on 25 May 2026, with the relevant parts reading as follows:

"I can confirm receipt of the signed witness statement of Naga Prasad dated 30 April 2026. Having examined the contents of the witness statement it is noted that the applicant is referencing evidence and states that the opposition was filed on 30 December 2025 and the counterstatement was filed on time.

Please note that the purpose of the witness statement is to provide reasons for the late filing of the TM8 and counterstatement. To confirm, the TM7 was filed on 13 January 2026 and set the applicant a deadline of 13 March 2026.[1] The late TM8 and counterstatement was then filed on 4 April 2026 and was therefore filed out of time.

Evidence will not be required from either party unless the late TM8 is accepted into proceedings and the proceedings enter the evidence rounds.

A period of 7 working days, that is on or before **2 June 2026** is provided in which to provide any comments. The reasons will then be examined and a preliminary view issued either accepting or refusing the late filed TM8 and counterstatement."
(original emphasis)

8. As no further response was received from the applicant, on 28 July 2026, an official letter was issued to the applicant, and copied to the opponent, with the relevant parts reading as follows:

"After careful consideration of the contents of the information you have provided and review of the case, the Registry's preliminary view is to refuse the Form TM8 and counterstatement into the proceedings.

It appears from the applicants comments that they were preparing to file evidence, please note that the missed deadline was for the applicant to file a TM8 and counterstatement and not evidence, which would have been required at a later stage in proceedings had a TM8 been filed.

If either party disagrees with the preliminary view, they should request a hearing within 14 days of the date of this letter, that is on or before **11 August 2026.** If

[1] For completeness, although the letter refers to the Form TM7 having been filed on 13 January 2026, it was filed on 30 December 2025 and served on the applicant on 13 January 2026. Nothing turns on that error.

no response is received within the time allowed, the preliminary view will automatically be confirmed."

(original emphasis)

Hearing request and submissions

9. On 6 August 2026, the applicant wrote to the Tribunal to request a hearing. In that same email, the applicant provided submissions which can be summarised as follows:

    - The explanation in the witness statement was provided in good faith and was never intended to suggest any disregard for the Tribunal's procedural requirements and that this should not outweigh the overall circumstances that resulted in the short delay.
    - The delay was minimal and unintentional.
    - The applicant acted promptly to rectify the position.
    - No material prejudice has been caused to the opponent. However, refusing the admission of the late TM8 would deprive the applicant of the opportunity to defend the opposition on its merits and would confer significant procedural advantage upon the opponent.
    - The interests of justice are best served by allowing both parties to present their cases so that the opposition may be determined on the evidence and the applicable law.
    - The Tribunal's discretion exists to ensure that procedural rules are applied fairly and proportionately. In the present case, the applicant submits that the circumstances justify the exercise of that discretion.

10. A hearing date was scheduled for 26 August 2026. The opponent confirmed in writing that they would not attend and instead filed written submissions in lieu of a hearing on 21 August 2026.

11. The opponent's submissions are summarised as follows:

- The Tribunal's discretion to admit a late-filed TM8 is limited and should be exercised only in exceptional circumstances.
- The witness statement of Naga Prasad does not explain the failure to file a TM8 and counterstatement. Instead, it addresses a subsequent failure to file evidence and refers to the deadline for filing evidence in reply rather than the deadline for filing the defence.
- The applicant has failed to explain how the alleged server failure prevented compliance with the relevant deadline or what steps were taken to avoid the default.
- The absence of prejudice to the opponent and the consequences for the applicant do not outweigh the lack of a compelling explanation for the failure to comply with the deadline.
- The request to admit the late-filed TM8 and counterstatement should be refused and the application should be treated as abandoned in respect of the opposed goods and services.

The hearing

12. The hearing took place before me via conference call on 26 August 2026 at 10.30am. Mr Nagaraja of Nagaraja BS attended on behalf of the applicant.

13. At the hearing Mr Nagaraja submitted that the applicant should be given the benefit of the doubt in relation to the late TM8 filing and that the opposition should reach a conclusion when considered on the substantive merits instead of a procedural lapse.

14. I informed Mr Nagaraja that the deadline by which to file a TM8 and counterstatement is a non-extendable deadline and that I could only exercise my discretion if there were compelling reasons and extenuating circumstances. I drew his attention to the applicant's witness statement, highlighting that it contained an explanation regarding the filing of evidence. I confirmed that the opposition had

not yet reached the evidence stage and asked for further clarification as to why the applicant had missed its deadline for filing a TM8 and counterstatement.

15. Mr Nagaraja responded that there was some confusion around the deadline. At that time, the applicant was in the Middle East due to the ongoing conflict and, consequently, its representatives were unable to contact the applicant for instructions. I sought further clarification as to the circumstances. However, Mr Nagaraja did not identify which individuals connected with the applicant were in the Middle East or provide further detail as to the precise effect that the conflict had on communications between the applicant and its representatives. He further submitted that the delay would not prejudice the opponent.

16. At the conclusion of the hearing, I reserved my decision to give me an opportunity to properly reflect on the submissions put forward by the parties and all the circumstances of the case.

DECISION

17. The filing of a Form TM8 and counterstatement in opposition proceedings is governed by Rule 18 of the Rules. The relevant parts read as follows:

> "18. – (1) The applicant shall, within the relevant period, file a Form TM8, which shall include a counter-statement.
>
> (2) Where the applicant fails to file a Form TM8 or counter-statement within the relevant period, the application for registration, insofar as it relates to the goods and services in respect of which the opposition is directed, shall, unless the registrar otherwise directs, be treated as abandoned.
>
> (3) Unless either paragraph (4), (5) or (6) applies, the relevant period is the period of two months beginning immediately after the notification date."

18. The combined effect of Rules 77(1), 77(5) and Schedule 1 of the Rules means that the time limit in Rule 18, which sets the period in which the defence must be filed, is non-extensible other than in the circumstances identified in Rule 77(5) which states:

> "A time limit listed in Schedule 1 (whether it has already expired or not) may be extended under paragraph (1) if, and only if—
>
> (a) the irregularity or prospective irregularity is attributable, wholly or in part, to a default, omission or other error by the registrar, the Office or the International Bureau; and
>
> (b) it appears to the registrar that the irregularity should be rectified."

19. There has been no suggestion that the late filing of the applicant's Form TM8 in this instance was because of an irregularity, default, omission or other error on the part of, *inter alia*, the Tribunal. Consequently, the only basis on which the applicant may be allowed to defend the opposition proceedings is if I exercise in its favour the discretion afforded to me by the use of the words "unless the registrar otherwise directs" in Rule 18(2).

20. In approaching the exercise of discretion in these circumstances, I consider the decisions of the Appointed Person in *Kickz AG v Wicked Vision Limited ("Kickz")*[2] and *Mark James Holland v Mercury Wealth Management Limited ("Mercury")*[3] i.e. I must be satisfied that there are extenuating circumstances which justify the exercise of the discretion in the applicant's favour.

21. In *Music Choice Ltd's Trade Mark* [2005] RPC 18, the Court indicated that a consideration of the following factors (underlined below) is likely to be of assistance in reaching a conclusion as to whether or not discretion should be

[2] BL/O/035/11
[3] BL/O/050/12

exercised in favour of a party in default. That is the approach I intend to adopt, referring to the parties' submissions to the extent that I consider it necessary to do so.

The circumstances relating to the missing of the deadline including reasons why it was missed and the extent to which it was missed;

22. The circumstances as to why the deadline was missed are summarised above. The stipulated deadline for the filing of the applicant's Form TM8 and counterstatement was 13 March 2026. This was filed by the applicant on 4 April 2026. Therefore, the deadline was missed by 22 days.

The nature of the opponent's allegations in its statement of grounds;

23. The opposition is brought under section 5(2)(b) of the Act. Whilst it is not for the present hearing to determine the merits of the case, there is nothing to suggest that the opposition is without merit.

The consequences of treating the applicant as defending or not defending the opposition;

24. If the applicant is allowed to defend the opposition, the proceedings will continue with the parties given an opportunity to file evidence and the matter will be determined on its merits.

25. If, however, the defence is not admitted into the proceedings, the application will be deemed abandoned, and the applicant will lose its filing date of 23 September 2025. It will remain open to the applicant to re-file its application, which may, in turn, be opposed again by the opponent.

Any prejudice caused to the opponent by the delay;

26. The applicant submits that no material prejudice has been suffered by the opponent.

27. No specific prejudice was highlighted to me by the opponent, but I recognise that it is often the case in litigation that delays result in ongoing costs and continuing legal uncertainty.

Any other relevant considerations such as the existence of related proceedings between the parties;

28. There are no other relevant considerations.

Conclusions

29. In reaching my decision, I recognise that, if the discretion is not exercised in the applicant's favour, the applicant will be treated as not defending the opposition and will lose its filing date in respect of all the goods and services in the application. It may be that the applicant will simply re-file its application and that this may, once again, be opposed by the opponent. However, as the loss of priority and possibility of further proceedings on much the same basis are often the consequences of a failure to comply with the non-extensible deadline to file a TM8, these are not factors which, in themselves, I consider particularly compelling.

30. The explanation contained in Mr Prasad's witness statement does not directly account for the failure to file the Form TM8 and counterstatement by the deadline. The statement concerns the applicant's ability to prepare evidence and proceeds on the mistaken basis that the counterstatement had been filed in time. However, the proceedings had not reached the evidence rounds. The statement therefore provides no clear connection between the alleged server failure and the failure to comply with the relevant deadline.

31. At the hearing, Mr Nagaraja provided a different explanation. He submitted that the applicant was in the Middle East due to the ongoing conflict and that its representatives had consequently been unable to obtain instructions. That

explanation was raised for the first time at the hearing and was not supported by evidence verified by a statement of truth. Further, although I sought clarification, Mr Nagaraja was unable to identify which individuals connected with the applicant had been affected or provide any detailed account of how the conflict had interfered with communications. These are significant shortcomings. A party seeking the exercise of discretion in its favour should ordinarily provide a clear and properly evidenced explanation for its failure to comply with a non-extensible deadline.

32. Despite this, I must consider all the circumstances. I am mindful that the deadline of 13 March 2026 fell during a period of significant conflict in the Middle East. The timing is consistent with the explanation advanced by Mr Nagaraja at the hearing. Further, Mr Prasad's witness statement demonstrates considerable confusion as to the procedural position and the deadline which had been missed. Whilst that confusion does not excuse the failure to meet the deadline, it lends some support to the submission that there were communication difficulties between the applicant and its representatives. I also take into account that the Form TM8 and counterstatement were filed 22 days late. However, following the Tribunal's letter of 26 March 2026 notifying the applicant that the deadline had been missed, the Form TM8 and counterstatement were filed on 4 April 2026. The applicant therefore took steps to remedy the position reasonably quickly once the missed deadline had been brought to its attention. No specific prejudice arising from the delay has been identified by the opponent, although I accept that delay inevitably causes some additional cost and continuing uncertainty.

33. I have found this to be a finely balanced matter. The applicant's explanation could, and should, have been presented with substantially greater clarity and supported by evidence. However, I am prepared to accept that the conflict in the Middle East may have materially contributed to the communication difficulties and procedural confusion which resulted in the deadline being missed. Taking that circumstance together with the fact that the deadline was missed by 22 days, the steps taken by the applicant following the Tribunal's letter of 26 March 2026 and the absence of specific prejudice to the opponent, I am satisfied that there are compelling reasons

and extenuating circumstances which justify the exercise of my discretion under Rule 18(2). Having regard to the factors set out in Kickz, Mercury and Music Choice, I direct that the late-filed Form TM8 and counterstatement be admitted into the proceedings.

CONCLUSION

34. The Registry's preliminary view is overturned. The late-filed Form TM8 and counterstatement are admitted into the proceedings. The opposition will proceed and the Tribunal will issue directions for the future conduct of the proceedings.

COSTS

35. As the opposition proceedings will continue, I make no order as to costs at this stage. The costs of this interlocutory matter will be considered at the conclusion of the substantive proceedings.

Dated this 23rd day of October 2026

Catrin Williams
For the Registrar