BL O/0985/26

TRADE MARKS ACT 1994

IN THE MATTER OF

TRADE MARK APPLICATION NUMBER 3968084

BY EL MEHDI AIT TOUKZAZE

TO REGISTER THE TRADE MARK:



IN CLASS 41

AND

IN THE MATTER OF OPPOSITION THERETO

UNDER NUMBER 445234

BY LLOYD'S MARITIME LLP

BACKGROUND AND PLEADINGS

1. On 16 October 2023, El Mehdi Ait Toukzaze ("the Applicant") applied to register in the UK the trade mark shown on the cover page of this decision, under number 3968084 ("the contested mark"). The contested mark was published in the Trade Marks Journal for opposition purposes on 27 October 2023 in respect of the following services:

   Class 41: Education consultancy; coaching; online training; online courses.

2. On 12 January 2024, LLOYD'S MARITIME LLP, ("the Opponent") filed a notice of opposition, opposing the application in full, under section 5(2)(b) of the Trade Marks Act 1994 ("the Act"). The Opponent relies upon the following UK trade mark:

   UK registration number: 3572889

   

   Filing date: 29 December 2020
   Registration date: 30 July 2021

   For the purposes of these proceedings, the Opponent relies upon on the following services in its opposition, for which the mark is registered, namely:

   Class 41: Education and training consultancy; Business training consultancy services; Management training consultancy

services; Coaching; Coaching [training]; Coaching services; Personal coaching [training]; Career counselling and coaching; Coaching in economic and management matters; Coaching relating to finance; Life coaching [training]; Political debate training and coaching; Political speech training and coaching; Coaching in the field of sports; Coaching services for sporting activities; Personal coaching services in the field of ballet; Online education services; Distance learning services provided online; Online academic library services; Online digital publishing services; Organisation of courses using distance learning methods; Organisation of courses using open learning methods; Organisation of courses using programmed learning methods; Online education services; Distance learning courses; Distance learning services.

3. In its notice of opposition, the Opponent submits that due to the high level of similarity in respect of the marks and the identical and highly similar nature of the services, there exists a high likelihood of confusion on the part of the average consumer.[1]

4. The Applicant filed a defence and counterstatement denying the grounds of the opposition.[2]

5. Given the filing dates, the Opponent's mark is an earlier mark, in accordance with section 6 of the Act. However, as it had not been registered for five years or more at the filing date of the application, it is not subject to the proof of use requirements specified within section 6A of the Act. As a consequence, the Opponent may rely upon all of the services for which the earlier mark is registered without having to establish genuine use.

[1] Form TM7 and statement of grounds, paragraph 17.
[2] Form TM8, paragraph 8

6. Neither party is represented. Both parties filed evidence and the Applicant filed submissions. Both parties were given the option of an oral hearing but neither requested to be heard on this matter, however, both parties filed written submissions in lieu of a hearing. This decision is taken following a careful review of the papers before me, keeping all submissions in mind.

EVIDENCE AND SUBMISSIONS

7. The Opponent's evidence in chief comes from Nadia Hakmi, who is the director of INTERNATIONAL MARITIME TRAINING ACADEMY LLP. The witness statement is dated 24 January 2025 and is accompanied by 9 exhibits (A – I). The exhibits include evidence pertaining to the Opponent's business, and the similarity of the marks and services in question. The evidence also contains extracts from websites detailing engagement and followers.

8. The Applicant filed evidence in the form of a witness statement from El Mehdi Ait Toukzaze, the Applicant in these proceedings. The witness statement is dated 16 June 2025 and is accompanied by 14 exhibits (A1-A3, B1-B2, C, D1-D3, E-H and X). The exhibits include evidence pertaining to the Applicant's use of the mark, including client testimonials, details of followers and email campaign records. At the same time, the Applicant filed written submissions.

9. The Opponent filed evidence in reply via a second witness statement dated 22 December 2026 from Nadia Hakmi. The witness statement is accompanied by 7 exhibits (NH1 – NH7). The main purpose of the evidence was to rebut the evidence filed by the Applicant, El Mehdi Ait Toukzaze.

RELEVANCE OF EU LAW

10. 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

Differences between the services

11. The Applicant has raised points in its counterstatement which I intend to address before going any further into the merits of this opposition. This is because it is necessary to explain why, as a matter of law, these points will have no bearing on the outcome of this opposition.

12. Differences between the services currently provided by the parties are irrelevant, except to the extent that those differences are apparent from each party's specification. In its counterstatement,[3] the Applicant refers to the way in which it says its services are provided, namely e-learning via the internet and looking for job opportunities in the marine field. It should be noted however, that I must compare the services in the parties' specifications on the basis of the 'notional' coverage of the services listed in the specifications. Any differences between the actual services offered by the parties or the parties' marketing/trading styles will, as a matter of law, have no bearing on the outcome of my assessment of similarity between the services at issue, unless those perceived differences are apparent from the specifications. This is because a trade mark registration is essentially a claim to a piece of legal property (the trade mark). Every registered mark is entitled to legal protection against the use, or registration, of the same or similar trade marks for the same or similar services if there is a likelihood of confusion, and the scope of protection afforded to that mark will be identified in its specification.

Preliminary Indication

13. In this case, the Tribunal issued a preliminary indication under Rule 19 of the Trade Marks Rules 2008 on 4 November 2024. It was issued by a Hearing Officer other

[3] TM8 and Counterstatement, section 8.

than me. A preliminary indication is not binding and does not replace a full decision. As a TM53 was filed, the proceedings continued. Although the Opponent's evidence and submissions refer to the preliminary indication and its outcome, it has played no part in my decision, which is based solely on my own assessment of the case.

Use of the term

14. In its evidence,[4] the Applicant has provided a list of institutions that refer to the industry wide use of the term 'International Maritime Training' and International Maritime Academy', suggesting that these are used by numerous unrelated institutions worldwide.

15. Whilst the evidence may indicate that the term is attractive for use within the sector, it falls well short of demonstrating widespread marketplace use or that the relevant consumer has become accustomed to distinguishing between marks containing the term. Accordingly, for the avoidance of doubt, I will say no more about this and, instead, continue to make my decision based on a fair and notional assessment of the similarity of the marks and the respective services at issue.

UDRP decision

16. Whilst I have noted the UDRP (Uniform Domain Name Dispute Resolution Policy) decisions referred to by the parties, they are not binding on the Registry and therefore do not carry any material weight in my assessment. I must determine the matter by applying the relevant trade mark law to the facts and evidence before me.

DECISION

Section 5(2)(b): legislation and case law

[4] Applicant's evidence filed 19 June 2026, Exhibit C

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

> "5(2) A trade mark shall not be registered if because–
>
> (a)…
> (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."

18. 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. The average consumer is deemed to be reasonably well informed and reasonably circumspect and observant, but someone who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them they have kept in their 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 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 might believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

Comparison of services

19. Section 60A of the Act provides:

"(1) For the purpose of this Act goods and services-

(a) are not to be regarded as being similar to each other on the ground that they appear in the same class under the Nice Classification.

(b) are not to be regarded as being dissimilar from each other on the ground that they appear in different classes under the Nice Classification.

(2) In subsection (1), the "Nice Classification" means the system of classification under the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, which was last amended on 28 September 1975."

20. In comparing the respective specifications, all relevant factors should be considered, as per *Canon*, where the 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."

21. 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.

22. In *Gérard Meric v OHIM*, Case T- 133/05, 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 für 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."

23. In *YouView TV Ltd v Total Ltd* [2012] EWHC 3158 (Ch), Floyd J. (as he then was) stated that:

"[…] Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise: see the observations of the CJEU in Case C-307/10 *The Chartered Institute of Patent Attorneys (Trademarks) (IP TRANSLATOR)* [2012] ETMR 42 at [47]- [49]. Nevertheless the principle should not be taken too far. Treat was decided the way it was because the ordinary and natural, or core, meaning of 'dessert sauce' did not include jam, or because the ordinary and natural description of jam was not 'a dessert sauce'. Each involved a straining of the relevant language, which is incorrect. Where words or phrases in their ordinary and natural meaning are apt to cover the category of goods in question, there is equally no justification for straining the language unnaturally so as to produce a narrow meaning which does not cover the goods in question."

24. In *Sky v Skykick* [2020] EWHC 990 (Ch), Lord Justice Arnold considered the validity of trade marks registered for, amongst many other things, the general term 'computer software'. In the course of his judgment he set out the following summary of the correct approach to interpreting broad and/or vague terms:

> "…the applicable principles of interpretation are as follows: (1) General terms are to be interpreted as covering the goods or services clearly covered by the literal meaning of the terms, and not other goods or services. (2) In the case of services, the terms used should not be interpreted widely, but confined to the core of the possible meanings attributable to the terms. (3) An unclear or imprecise term should be narrowly interpreted as extending only to such goods or services as it clearly covers. (4) A term which cannot be interpreted is to be disregarded."

25. In *Avnet Incorporated v Isoact Limited* [1998] FSR 16, Jacob J (as he then was) said at [19]:

> "[…] definitions of services … are inherently less precise than specifications of goods. […] In my view, specifications for services should be scrutinised carefully and they should not be given a wide construction covering a vast range of activities. They should be confined to the substance, as it were, the core of the possible meanings attributable to the rather general phrase."

26. I bear in mind that it is permissible to group goods together for the purposes of assessment: *Separode Trade Mark*:[5]

> "The determination must be made with reference to each of the different species of goods listed in the opposed application for registration; if and to the extent that the list includes goods which are sufficiently comparable to be assessable for registration in essentially the same way for essentially the same reasons, the decision taker may address them collectively in his or her decision."

[5] BL O/399/10

27. The competing services are as follows:

Opponent's services	Applicant's services
Class 41: Education and training consultancy; Business training consultancy services; Management training consultancy services; Coaching; Coaching [training]; Coaching services; Personal coaching [training]; Career counselling and coaching; Coaching in economic and management matters; Coaching relating to finance; Life coaching [training]; Political debate training and coaching; Political speech training and coaching; Coaching in the field of sports; Coaching services for sporting activities; Personal coaching services in the field of ballet; Online education services; Distance learning services provided online; Online academic library services; Online digital publishing services; Organisation of courses using distance learning methods; Organisation of courses using open learning methods; Organisation of courses using programmed learning methods; Online education services; Distance learning courses; Distance learning services.	Class 41: Education consultancy; coaching; online training; online courses.

28. The Tribunal wrote to the Applicant [6] on a number of occasions requesting the Applicant amend its counterstatement and indicate whether it admitted or denied the alleged similarity between the competing services. The Applicant failed to address this issue. Therefore, in a letter dated 4 November 2024, and with reference to *Skyclub* (O/044/21), the Tribunal confirmed that "*the Tribunal shall proceed on the understanding that as the allegations have not been denied by the applicant, they are admitted.*" Ordinarily, I would therefore proceed on the basis that the similarity of the services is admitted. However, the Applicant's specification only contains four terms, so, for the avoidance of doubt, I will undertake my own assessment of the competing services.

Class 41

Education consultancy; Coaching

29. The above services for which the Applicant seeks registration are present in the specifications of the earlier mark relied upon by the Opponent and are therefore self-evidently identical.

Online courses.

30. The Opponent's mark is registered for '*Online education services'* which as a broad term would include the provision of education through online courses. Consequently, the Applicant's '*Online courses*' are encompassed by the Opponent's '*Online education services'*. Therefore these goods are identical in accordance with the principle set out in *Meric.*

Online training.

[6] Official letters dated 17 March 2024, 9 May 2024 and 3 September 2024.

31. I consider the Opponent's term "Coaching [training]" to be sufficiently broad to encompass the Applicant's "Online training", as it includes training delivered online. Accordingly, applying the principle established in *Meric*, I find the respective services to be identical. However if I am wrong in my assessment, I find that they share the same general nature and purpose, are directed at the same users and are likely to be offered through the same or overlapping trade channels. They may also be in competition, as a consumer seeking to acquire specific skills or knowledge may choose between coaching-based training and other forms of online training. The services are not complementary. Accordingly, I find the respective services to be similar to a high degree.

Fallback Class 41 specification

32. In its written submissions in lieu, the Applicant submits the following:

> "*I do not accept that there is any genuine risk of confusion. But if the Hearing Officer is minded to find otherwise, I would be willing as a fallback to limit my class 41 specification to:*
>
> *"Online distance-learning training courses for maritime and shipping industry professionals; online coaching services for maritime professionals."*

33. In considering the fallback specification, I find that the Applicant's "Online distance-learning training courses for maritime and shipping industry professionals" and "online coaching services for maritime professionals" remain identical, in accordance with the principle established in *Meric*, to the Opponent's "Distance learning services provided online" and "Coaching", respectively.

34. Consequently, as the "fallback" specification does not put the Applicant in a better position, it is therefore dismissed, and I will not consider it any further.

The average consumer and the nature of the purchasing act

35. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. 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 (see *Lloyd Schuhfabrik Meyer*, Case C-342/97).

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

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

(f) the average consumer rarely has the opportunity to make direct comparisons between trade marks (or between trade marks and signs) and must instead rely upon the imperfect picture of the trade mark they have kept in their mind.

37. The average consumer for the services at issue will include professional and business users, as well as members of the general public, seeking educational, training or personal development services. The services may be purchased with varying degrees of frequency. For example, they may be purchased quite regularly for ongoing professional development or less frequently where prompted by a specific training need. The cost will likewise vary. For example, one-off training sessions may be relatively inexpensive, whereas ongoing professional development may incur significantly higher expense. Factors such as subject matter, course content, cost, duration, delivery method and provider credentials are likely to be considered by the consumer during the purchasing process. The level of attention will also vary depending on the nature of the service. Whilst more casual consideration may be given to occasional or one-off learning opportunities, the selection of a provider for a professional qualification is likely to involve a higher degree of care. Taking all of this into account, I find the average consumer for the services at issue will pay at least a medium degree of attention overall.

38. The services are likely to be purchased directly from the provider, after viewing information in brochures, advertisements or on websites. Consequently, I find that the purchasing process will be predominantly visual in nature. Nevertheless, aural considerations in the form of word-of-mouth recommendations or discussions with potential service providers, for example, cannot be discounted.

Comparison of marks

39. 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 components. The CJEU states at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

> "…it is necessary to ascertain, in each individual case, the overall impression made on the target public by the sign for which registration is sought, by means of, inter alia, an analysis of the components of a sign and of their relevant 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."

40. It would be wrong, therefore, to dissect the trade marks artificially, although it is necessary to take into account the distinctive and dominant components of the trade 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.

41. The marks to be compared are as follows:

Earlier mark	Contested mark
	

Overall impression

42. The contested mark consists of the words 'INTERNATION MARITIME TRAINING', arranged around the perimeter of a circular device. At its centre is a figurative element comprising an anchor entwined with rope, together with further nautical

and decorative elements. The verbal and figurative elements are integrated within the overall design, and I do not consider either to dominate. The words 'INTERNATIONAL MARITIME TRAINING' are descriptive of international training, or training provided within the maritime sector, and therefore possess only a low degree of distinctive character. Similarly, the anchor, rope and other nautical imagery are strongly evocative of the maritime nature of the services, whilst the open book device has a strong allusive relationship to the educational nature of the services. As such, these elements have limited distinctive character in their own right. Nevertheless, notwithstanding the limited distinctive character of the individual elements, both the verbal and figurative components contribute equally to the presentation of the mark. The overall impression therefore resides in the mark as a whole.

43. The earlier mark consists of the words 'INTERNATIONAL MARITIME ACADEMY', arranged around the perimeter of a circular device. At its centre is a figurative element comprising an anchor entwined with rope, together with further nautical and decorative elements The verbal and figurative elements are integrated within the overall design, and I do not consider either to dominate. The words 'INTERNATIONAL MARITIME ACADEMY' are descriptive of an international institution providing education and training within the maritime sector and therefore possess only a low degree of distinctive character. Similarly, the anchor, rope and other nautical imagery are strongly evocative of the maritime nature of the services and, as such, have limited distinctive character in their own right. Nevertheless, notwithstanding the limited distinctive character of the individual elements, both the verbal and figurative components contribute equally to the presentation of the mark. The overall impression therefore resides in the mark as a whole.

Visual Comparison

44. Visually, the marks coincide in that they share the words 'INTERNATIONAL MARITIME', identically positioned in both marks. The marks differ in their third word, namely 'ACADEMY' in the earlier mark and 'TRAINING' in the contested mark. As regards to the figurative elements, both marks consist of a layered circular device that contains the wording in similar positions. Both marks also contain an

anchor in dark blue, draped with a white rope in the centre of the mark. In addition, both marks have an outer circular border which appears to contain compass style points and markings. Two dark blue stars are also present in both marks, separating the first two words from the third word, albeit in slightly different positions. However, they differ in that the contested mark contains an open book in the centre of the mark, which is not present in the earlier mark. Although both marks are presented in shades of blue and white, the background at the centre of the marks, the wording and the inner circular device are shown in a different colour arrangement. Accordingly, weighing up the similarities with the differences, I find the respective marks to be visually similar to a high degree.

Aural Comparison

45. Aurally, the first two words of each mark, namely, 'INTERNATIONAL MARITIME', will be identically articulated. The marks therefore coincide identically in 8 syllables, differing only with the pronunciation of the words 'ACADEMY' and 'TRAINING' at the ends of the marks. The figurative elements in both marks will not be articulated. Overall, I find the respective marks to be aurally similar to between a medium and high degree.

Conceptual Comparison

46. For a conceptual message to be relevant it must be capable of immediate grasp by the average consumer. This is highlighted in numerous judgments of the GC and the CJEU including *Ruiz Picasso v OHIM* [2006] e.c.r.-I-643; [2006] E.T.M.R 29. The assessment must, therefore, be made from the point of view of the average consumer.

47. Both marks contain the identical words 'INTERNATIONAL MARITIME'. I understand the word 'INTERNATIONAL' to mean relating to, involving or existing between two or more countries, whilst I understand 'MARITIME' to mean relating to the sea, ships, shipping, or navigation by sea. I find these words in the respective marks to be conceptually identical.

48. Moving onto the third word in the earlier mark, 'ACADEMY' and the third word in the contested mark, 'TRAINING', In its statement of grounds,[7] the Opponent submits that the Applicant's mark is conceptually highly similar to the Opponent's mark because the additional word 'TRAINING' in the Applicant's mark is a synonym for the word 'ACADEMY'. In its submissions in lieu, the Applicant denies this claim.[8]

49. Whilst I do not agree with the Opponent that 'TRAINING' is a synonym for 'ACADEMY, I find that both words share a connection in their common meanings. It is my view that they are related but distinct concepts. An 'ACADEMY' may be understood as a formal institution for teaching, training or specialised learning, aimed at developing skills or knowledge in a specific field. 'TRAINING' may be understood as structured instruction designed to teach a skill and improve performance and ability. Therefore an academy is the institution or provider, whereas training is the activity delivered by that institution. In the context of the services, the earlier mark 'INTERNATIONAL MARITIME ACADEMY', conveys the concept of an institution providing training, education and professional development within the international maritime sector, whereas the contested mark, 'INTERNATIONAL MARITIME TRAINING', conveys the concept of training or instruction in the international maritime sector. Therefore, although distinct in their meanings, the third words in the marks are conceptually related as they both relate to the provision of training in the maritime sector.

50. Accordingly, bearing in mind the shared words 'INTERNATIONAL MARITIME', the connection between 'ACADEMY' and 'TRAINING' and the maritime figurative elements, present in both marks, I find the marks to be conceptually similar to a high degree.

Distinctive character of the earlier mark

51. The distinctive character of a trade mark can be appraised only, first, by reference to the goods and services in respect of which registration is sought and, secondly,

[7] TM7 and Statement of Grounds, paragraph 11.
[8] Applicant's submissions in lieu, paragraph 1.

by reference to the way it is perceived by the relevant public – *Rewe Zentral AG v OHIM (LITE)* [2002] ETMR 91. In *Lloyd Schuhfabrik Meyer*, the CJEU stated that:

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

52. 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.

53. The earlier mark is comprised of the three words 'INTERNATIONAL MARITIME ACADEMY. As noted above, these words are likely to be perceived as referring to an institution providing training, education and professional development within the international maritime sector. They are therefore strongly allusive, if not

descriptive, of the Opponent's services. The figurative elements present in the earlier mark also allude to the maritime nature of the services. I find the distinctiveness of the earlier mark lies in the mark as a whole, which I find to be inherently distinctive to no more than a medium degree.

54. In its written submissions in lieu, the Opponent submits the following:[9]

> "the Opponent's earlier mark possesses at least normal, if not enhanced distinctiveness, supported by substantial use."

55. I will now turn to the evidence filed by the Opponent to determine whether the distinctiveness of its mark has been enhanced through use. The evidence does not offer any insight into the size of the relevant market, nor the Opponent's share of the same. Additionally, the Opponent has provided no turnover figures. There is no information on the number of UK consumers visiting its website as shown in **Exhibit B**, nor is there any information on corresponding sales resulting from these views. Although the witness statement refers to digital advertising campaigns,[10] there are no figures concerning the promotion of the earlier mark within the UK, nor the amount of investment made in such promotion. In regards social media, whilst there is data relating to the number of followers, as shown in **Exhibit E**, no breakdown has been provided to show how many of the followers are UK consumers. Taking all of this into account, in my view the evidence is not sufficient to establish that the distinctiveness of the earlier mark has been enhanced through use.

Likelihood of confusion

56. 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 services down to the responsible undertakings being the same or related. There is no scientific formula to apply in determining

[9] Opponent's submissions in lieu dated 20 April 2026, paragraph 4.
[10] Witness statement of Nadia Hakim dated 24 January 2025, paragraph 6.

whether there is a likelihood of confusion; rather, it is a global assessment where a number of factors need to be borne in mind. The first is the interdependency principle i.e. a lesser degree of similarity between the respective goods and services may be offset by a greater degree of similarity between the marks and vice versa. I must bear in mind the distinctive character of the earlier marks, the average consumer for the goods and services and the nature of the purchasing act. To do so, I must recognise 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 he has retained in his mind.

57. Throughout the course of this decision, I have determined that::

- I have found the marks to be visually and conceptually similar to a high degree and aurally similar to between a medium and high degree.

- I have found the Opponent's mark as a whole to be inherently distinctive to no more than a medium degree.

- I have found the average consumer will include professional and business users, as well as members of the general public, who will pay at least a medium degree of attention during the purchasing process. I have concluded that the selection process is likely to be visual but do not discount aural considerations.

- I have found the services to range between highly similar and identical.

58. Taking all the factors set out above into account, including the identity or high degree of similarity between the services and the interdependency principle, I find that the marks share the identically positioned words 'INTERNATIONAL MARITIME' and a highly similar layered circular device consisting of a dark blue anchor, a white rope, a compass style border and two stars. Although the shared words and figurative elements are, at best, allusive of the respective services, it is the highly similar combination and arrangement of those elements within the marks as a whole which is significant. There is little beyond those shared elements for the

consumer to grasp in order to differentiate between the marks. The marks differ in their third words, namely 'ACADEMY' in the earlier mark and 'TRAINING' in the contested mark. However, these words have a conceptual connection and describe the respective services, or the type of organisation that provides them. The open book device in the contested mark similarly reinforces the educational message and is not sufficiently memorable, whilst the differences in colour arrangement and positioning are relatively minor and of no distinctive significance. Given the high degree of visual similarity, at least medium degree of aural similarity, the no more than medium degree of inherent distinctive character of the earlier mark as a whole, and the principle of imperfect recollection, I consider that the average consumer paying at least a medium degree of attention is likely to mistake one mark for the other. I therefore find there is a likelihood of direct confusion between the earlier mark and the contested mark.

59. However, if I am wrong in my finding above, I will now go on to consider indirect confusion. I acknowledge that a finding of indirect confusion should not be made merely because the two marks share a common element. However, it is not sufficient that a mark merely calls to mind another mark,[11] this is mere association not indirect confusion.

60. I also note that in the case of *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 1207, Arnold LJ referred to the comments of James Mellor QC (as he then was), sitting as the Appointed Person in *Cheeky Italian Ltd v Sutaria* (O/219/16), where he said at [16] that "a finding of a likelihood of indirect confusion is not a consolation prize for those who fail to establish a likelihood of direct confusion". Arnold LJ agreed, pointing out that there must be a "proper basis" for concluding that there is a likelihood of indirect confusion where there is no likelihood of direct confusion.

61. In *L.A. Sugar Limited v Back Beat Inc*[12] Mr Iain Purvis Q. C. (as he then was), as the Appointed Person, explained that:

[11] *Duebros Limited v Heirler Cenovis GmbH,* BL O/547/17
[12] Case BL O/375/10

“16. Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different from the earlier mark. It therefore requires a mental process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: ‘The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark’.

17. Instances where one may expect the average consumer to reach such a conclusion tend to fall into one or more of three categories:

(a) where the common element is so strikingly distinctive (either inherently or through use) that the average consumer would assume that no-one else but the brand owner would be using it in a trade mark at all. This may apply even where the other elements of the later mark are quite distinctive in their own right (‘26 RED TESCO’ would no doubt be such a case).

(b) where the later mark simply adds a non-distinctive element to the earlier mark, of the kind which one would expect to find in a sub-brand or brand extension (terms such as ‘LITE’, ‘EXPRESS’, ‘WORLDWIDE’, ‘MINI’ etc.).

(c) where the earlier mark comprises a number of elements, and a change of one element appears entirely logical and consistent with a brand extension (‘FAT FACE’ to ‘BRAT FACE’ for example)”.

62. These three categories are not exhaustive. Rather, they were intended to be illustrative of the general approach. [13]

63. Even if the average consumer were to notice the differences between the marks and not directly mistake one for the other, I consider that there would still be a likelihood of indirect confusion. The marks share the words 'INTERNATIONAL MARITIME' and a layered circular device containing an anchor, rope, a compass style border and two stars, presented in shades of blue and white, albeit with some slight variations in colour arrangements and positioning. The differences, namely the substitution of 'ACADEMY' for 'TRAINING', the open book device and the slight variations in positioning and colour arrangement of the figurative elements, I find would be of the kind that the average consumer would regard as a logical brand extension or a variant used by the same undertaking. As the word 'TRAINING' in the contested mark is a generic word to describe the services that an academy may provide and the open book device reinforces this message, it would likely be seen as a brand variation or brand extension. Accordingly, I find there is a likelihood of indirect confusion.

Conclusion

64. The opposition under Section 5(2)(b) of the Act has been successful. Subject to any successful appeal, the application will be refused.

Costs

65. The Opponent has been successful and is entitled to a contribution towards its costs. The Opponent submitted a Tribunal cost proforma on 21 April 2026 setting out the time taken to undertake the activities involved in supporting its case these proceedings. To summarise the Opponent's cost proforma, these consisted of:

[13] As was confirmed by the Court of Appeal in *Liverpool Gin Distillery and others v Sazerac Brands, LLC and others* [2021] EWCA Civ 1207, paragraph 12.

Notice of Opposition:	5 hours, 30 minutes
Considering forms filed by the other party:	3 hours, 30 minutes
Preparing evidence/written submissions:	15 hours, 30 minutes
Considering the other sides evidence and submissions:	5 hours
Total:	**29 hours, 30 minutes**

66. Where a party is represented, the Registrar usually awards costs on a scale published in Tribunal Practice Notice ('TPN') 1 of 2023. As a matter of practice, litigants in person are asked to complete a costs proforma to ensure that the costs awarded do not exceed the amount spent on the proceedings which would undermine the Registrar's contribution-not-compensation practice in awarding costs. The number of hours claimed is not binding and is subject to an assessment of whether the time spent was reasonable in the circumstances of the case.

67. TPN 1/2023, Annex A, sets out the scale of costs applicable for tasks that are recoverable. It should be noted that a person who represents themselves, which is commonly referred to as a litigant in person, is entitled to a standard rate of £19 per hour for time reasonably spent on recoverable activities in line with part 46 of the Civil Procedure Rules.[14] However, the amount awarded for tasks should not usually exceed that of the scale.

Pleadings

68. I accept that the Opponent, as a litigant in person, would take longer to prepare and consider documents than a solicitor or trade mark attorney. Therefore, I consider it reasonable to award the Opponent 2 hours for completing the TM7 and preparing its statement of grounds, and 2 hours for considering the other side's counterstatement, which also includes research time.

[14] As the invalidation application was brought prior to 1 October 2025.

Preparing and Filing Evidence and Submissions

69. The Opponent has claimed 8 hours for preparing and submitting its evidence in chief, which consisted of a brief 3-page witness statement and 9 exhibits, totalling 46 pages. The evidence contains a copy of the Trade Mark registration certificate, which accounted for 18 pages, a copy of a UDRP decision, images from websites and social media pages, data from the web archives and screens shots of certificates awarded. The evidence also contains a comparison of the respective marks and services. I consider it reasonable to award 4 hours. This includes time for researching and collating evidence.

70. The Opponent has claimed 4 hours and 30 minutes for preparing its evidence in reply, which consisted of a 4-page witness statement and 7 exhibits, totalling 54 pages. The evidence includes a copy of a letter issued by the Tribunal, documents from Companies House concerning the company's incorporation and change of name, documents referring to dormant accounts and a strike-off/dissolution notice, a screen shot of 1 invoice, and a copy of a UDRP decision. I consider it reasonable to award 3 hours for the preparation of this material. This includes time for researching and collating the evidence.

71. The Opponent also filed written submissions in lieu of a hearing, for which it claimed 3 hours. Having considered those submissions, I consider an award of 1 hour to be reasonable, given the extent to which they duplicate matters already addressed in the Opponent's earlier submissions and statement of grounds.

Considering the other sides evidence and submissions

72. The Opponent has claimed 5 hours to consider the Applicant's evidence and submissions. The Applicant's evidence consisted of a 4-page witness statement and 14 exhibits, totalling 42 pages. A further 2 pages of submissions were also filed. I consider it reasonable to award 2 hours to review and consider the evidence and submissions.

73. Taking account of this, I consider the following figures to be a fair and reasonable award of costs:

Preparing a statement and considering the other side's statement:	4 hours
Preparing evidence/written submissions:	8 hours
Considering the other side's evidence and submissions:	2 hours
Total:	**14 hours**

74. I have reduced the time claimed for preparing the statement of grounds and considering the other side's statement to 4 hours in total, and allowed 10 hours for preparing and considering the parties' evidence and written submissions. These reductions reflect the relatively limited length and complexity of the material, together with the fact that a significant proportion of it was repetitive or of limited relevance to the issues I was required to determine. I therefore consider the reduced allowances to represent a reasonable and proportionate amount of time for the work properly undertaken in support of the Opponent's case.

75. Accordingly, I have calculated the total using the standard rate for unrepresented parties; that being £19 per hour, in line with the Civil Procedure Rules, Part 46 as shown below. Additionally, the Opponent is also entitled to recover the official fee for the filing of the opposition, that being £100 in this case. Therefore, applying this prescribed rate to the 14 hours reasonably incurred, as well as adding the official fee, results in an award of £366:

14 hours x £19 per hour	£266
Official fee	£100
Total	**£366**

76. I therefore order **El Mehdi Ait Toukzaze** to pay **Lloyd's Maritime LLP**, the sum of **£366**. This sum should 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 5th day of November 2026

Mrs Joanne Roberts
For the Registrar