

**BL O/1048/25**

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NUMBER UK00003721761  
BY JOINT APPLICANTS CHIKAMSO CHINONYE EFOBI  
AND DOXA CONSULTING LTD  
TO REGISTER THE TRADE MARKS:

BOSS BIBLE  
AND  
Boss Bible

(SERIES OF 2)

AND

OPPOSITION NUMBER 433152  
BY  
THE LADBIBLE GROUP LIMITED

AND

IN THE MATTER OF AN APPEAL TO THE APPOINTED PERSON  
BY  
LADBIBLE GROUP LIMITED  
AGAINST DECISION NO. O/0187/25  
DATED 28<sup>th</sup> FEBRUARY 2025

BRISTOWS LLP, Solicitors, made written submissions only for LADBible Group Limited, the Appellant/Opponent  
MS. CHIKAMSO CHINONYE EFOBI appeared for the Respondents/Joint Applicants

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APPEAL DECISION

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**Introduction & Background**

1. This is an appeal by the Opponent The Ladbible Group Limited from decision BL O/0187/25 of Mrs E Fisher, sitting as a Hearing Officer on behalf of the Registrar of Trade Marks, dated 28 February 2025.
2. Joint Applicants Chikamso Chinonye Efobi and Doxa Consulting Ltd (“the Applicants”) applied to register the series mark BOSS BIBLE/Boss Bible under No. 3721761 for various goods and services in classes 9, 16 and 41.
3. On 1st April 2022 this application was opposed by LADBible Group Limited (“the Opponent”) based on a number of prior registrations/rights. For the purpose of this appeal I am concerned only with the Opponent’s trade mark LAD BIBLE, which the Hearing Officer regarded as the Opponent’s best case. That mark is registered under No. 3296777. The opposition proceeded under sections 5 (2) (b) and 5 (3) of the Trade Marks Act 1994 (“the Act”) in respect of the LAD BIBLE registration, and S. 5 (4) (a) in

respect of the common law rights claimed by the opponent in that mark by virtue of its use and goodwill. The Opponent also claimed that its registration benefitted from enhanced distinctive character through its use.

### **The Hearing Officer's Decision**

4. As shall become clear, the appeal concerns only the scope of the specification of Class 41 services for which, in the event, the opposition was unsuccessful. It is only necessary to set out those parts of the Hearing Officer's decision relevant to this issue. Furthermore, although the Appeal is directed to all three opposition grounds, it stands or falls on the outcome of the Hearing Officer's approach to the resolution of the S. 5 (2) (b) ground of opposition, so I shall focus on that area.
5. Approaching the S. 5 (2) (b) ground, the Hearing Officer began the comparison of the parties' goods and services (from [48]-[53]) by reminding herself of the relevant legal principles including:

“51. In *Gérard Meric v OHIM*, the GC confirmed that even if goods/services are not worded identically, they can still be considered identical if one term falls within the scope of another (or vice versa):

“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.”<sup>1</sup>

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And

53. Finally, the judgment of Jacob J (as he then was) in *Avnet Incorporated v Isoact Limited* is also relevant:

“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.””

6. There is no suggestion that the Hearing Officer misdirected herself on these principles in any way.

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<sup>1</sup> Often referred to as “*Meric identical*”

7. The Hearing Officer went on to hold that the Opponent had shown its registration had enhanced distinctive character and a reputation for the following goods and services only:

Class 9: Publications in electronic format consisting of social media content.

Class 41: Provision of entertainment information via social media;  
providing nondownloadable electronic publications consisting of social media content;  
entertainment publishing services via social media;  
online publication of news and current affairs via social media;  
providing on-line videos (nondownloadable).

(“the Opponent’s Enhanced Goods/Services”).

There is no appeal from that finding.

8. The Hearing Officer went on to compare the Applicants’ goods and services with the Opponent’s Enhanced Goods and Services. For the purposes of this appeal the relevant parts of the Decision are as follows.

*Class 41*

*Publication of books, magazines, almanacs and journals; Publication of journals;  
Publishing of journals; Publishing of journals, books and handbooks in the field of  
medicine; Publication of scientific information journals; Publishing of books;  
Publication of books; Publication of books, reviews; Publication of year books.*

75. There is some overlap between these services and some of the enhanced services (providing non-downloadable electronic publications consisting of social media content; entertainment publishing services via social media; online publication of news and current affairs via social media); they are all publications services. The content of the publications differs and so there is minimal overlap in the services’ nature and purpose, though there is an overlap in user and trade channels. Overall, I find a medium degree of similarity between these services.

*Publication of electronic books and journals online; Online publication of electronic books and journals; Publishing of electronic books and journals online; Publishing of electronic books and journals on-line; Publication of electronic books and journals online; On-line publication of electronic books and journals; On-line publication of electronic books and journals [not downloadable]; On-line publication of electronic books and journals (non-downloadable).*

76. On the principle outlined in *Meric* I find the above services to encompass some of the opponent’s enhanced services: providing non-downloadable electronic publications consisting of social media content; entertainment publishing services via social media; online publication of news and current affairs via social media. These are identical.

*Multimedia publishing of journals*

77. The comparison with these services can be made on much the same basis as in my previous paragraph. I find these services identical.

*Freelance journalism; Journalism services*

78. My comparison at paragraph 65 applies equally here. The applicants' freelance journalism and journalism services are similar to a medium degree to the opponent's enhanced services.<sup>2</sup>

9. Moving on, the Hearing Officer turned her mind to assessing (under S. 5 (2) (b)) the likelihood of confusion. Having reminded herself of the relevant principles and drawing her previous findings together [86-87], she ruled out the possibility of direct confusion. Again, there is no appeal from this finding.

10. Turning to the question of indirect confusion, at [94] the Hearing Officer held (with emphasis added):

“94. To my mind, there is only a likelihood of indirect confusion for the applicants' goods/services which are the same as the goods and services for which the opponent has shown an enhanced distinctive character. Although the earlier mark is highly distinctive in its sector (broadly speaking, online publishing via social media and electronic publications consisting of social media content), the enhanced distinctiveness resides in LAD BIBLE as a whole and not in the word BIBLE, solus. Therefore, where the goods/services are only similar, or relate to goods/services for which the distinctive character of LAD BIBLE has not been enhanced through use, and therefore remains only average, it is far more likely that it will be seen as a coincidence that two entities incorporate the common word BIBLE, rather than it being a variant used by the opponent. Accordingly, in respect of the applicants' goods and services which are not the same as those goods and services for which the opponent has shown an enhanced distinctive character, I see no proper basis for a finding of indirect confusion.”

Once again, this finding was not appealed.

11. At [99] the Hearing Officer summed up her findings on S. 5 (2) (b) as follows:

**Conclusion**

99. I find there to be a likelihood of confusion for the applicants' services which are identical to those of the opponent for which I have found an enhanced distinctive character. The opposition under section 5(2)(b) succeeds for:

*Publication of electronic books and journals online; Online publication of electronic books and journals; Publishing of electronic books and journals online; Publishing of electronic books and journals on-line; Publication of electronic books and journals on-line; On-line publication of electronic books and journals; On-line publication of electronic books and journals [not downloadable]; On-line publication of electronic books and journals (non-downloadable); Multimedia publishing of journals.*

(the “Refused Services”).

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<sup>2</sup> (The mention at [78] to Paragraph [65] references the Hearing Officer's finding, in respect of the Opponent's “non-enhanced” services, that “Freelance Journalism and Journalism Services” were only similar to a medium degree to “interactive information provided online via the Internet and other computer and communication networks relating to news [...], multimedia publishing of magazines, journals and news and online publication of news and current affairs”).

12. At [118] the Hearing Officer upheld the Opposition under S. 5 (3) for the Refused Services only, by parity of reasoning.

13. Under S. 5 (4) (a), the Hearing Officer held that the Opponent had goodwill in LAD BIBLE for the slightly different goods and services to the Enhanced Goods and Services but, that notwithstanding, at [129] she held that the opposition on this ground once again succeeded, for the Refused Services only.

14. Finally, the Hearing Officer set out her overall conclusions at [130] onwards,:

130. The opposition has succeeded in relation to the following services, which will be refused registration:

Class 41: Publication of electronic books and journals online; Online publication of electronic books and journals; Publishing of electronic books and journals online; Publishing of electronic books and journals on-line; Publication of electronic books and journals on-line; On-line publication of electronic books and journals; On-line publication of electronic books and journals [not downloadable]; On-line publication of electronic books and journals (non-downloadable); Multimedia publishing of journals.

131. The application may proceed to registration for (*inter alia*) the following goods and services:

.....

Class 41: Publication of books, magazines, almanacs and journals; Publication of journals; Publishing of journals; Publishing of journals, books and handbooks in the field of medicine; Publication of scientific information journals; Publishing of books; Publication of books; Publication of books, reviews; Freelance journalism; Journalism services;

(the "Maintained Services").

### **The Appeal & The Respondent's Notice**

15. In approaching the appeal, I note the following introduction to the Grounds (my emphasis):

2. The Appellant is not appealing the Decision in its entirety. The Appeal is only in respect of the Hearing Officer's findings at paragraphs 99, 130, and 131 in relation to the list of services in class 41 which should be refused pursuant to the Opposition No. 433152 ("the Opposition") to UK Trade Mark Application no. 3721761 BOSS BIBLE/ Boss Bible in classes 9, 16 and 41 ("the Respondent's Application") in the name of joint applicants, Chikamso Chinonye Efobi and Doxa Consulting Ltd ("the Applicants" or "the Respondent").

3. The Appellant is not appealing any other aspect of the Decision.

16. This limitation was repeated in the Opponent's written submissions. On the face of it, therefore, the Appeal is narrow in scope, being limited to the formulation of the lists of services included in those three conclusory paragraphs. There is no express appeal as regards paragraphs [75] and [78] of the

Decision, which is where the Hearing Officer compared and assessed the identity/similarity of the *parties'* relevant services, including as to *Meric* identity. Nor is there any appeal against paragraph [94] of the Decision, in which the Hearing Officer evaluated the risk of indirect confusion, based in part on her assessment of the extent of identity/similarity of the *parties'* services.

17. Instead, the Appeal essentially consists of a primary Ground (which I designate as Ground 1) namely that the broad terminology of the Applicants' Maintained Services includes the Applicants' Refused Services as a subset and is therefore identical, such that the Opposition should also have succeeded against them. In effect, the proposition is that the Maintained Services are *Meric* identical to the Refused Services. Whilst a *Meric* comparison relates to a comparison of the parties' services rather than to an "internal" comparison of the Applicants' own services, I see no reason why the principle should not also apply to such an internal comparison.

18. Despite the limitation described in [15] above Opponent appears to run a secondary ground to the effect that the Hearing Officer erred at [78] in comparing the Applicants' "*Freelance journalism*" and "*Journalism services*" with the Opponent's Enhanced Services. It is said that that there should have been a finding of identity rather than "medium similarity". Although arguably excluded by the self-imposed limits to the appeal, I shall treat that as Ground 2.

19. The Applicants filed a Respondent's notice which, in essence, asks that the Decision of the Hearing Officer be maintained for the reasons that she gave.

### **Standard of Appeal**

20. The standard of appeal is well-known. It is limited to a review, not a re-hearing. I should only interfere with the Hearing Officer's findings of fact if the decision was rationally insupportable (*Volpi v Volpi* [2022] EWCA Civ 464, [2022] 4 WLR 48 at [2](v) (Lewison LJ)). As for a multifactorial evaluation of the kind involved in assessing trade mark disputes, I should only intervene if the Hearing Officer erred in law or principle (*Axogen Corporation v Aviv Scientific Limited* [2022] EWHC 95 (Ch), at [24]).

21. On the question of the assessment of the comparison of goods and services, I remind myself that the Registrar is a specialist tribunal and it is well established that judicial caution and restraint is required when considering whether to set aside a Hearing Officer's decision on such matters (*Extreme Networks Limited v Extreme Limited*, [2024] EWCA Civ 1386, per Arnold LJ at [31])

22. I bear these principles in mind.

## **Merits of the Appeal**

### **Ground 1 – The Maintained Services are Identical to the Refused Services**

23. The Hearing Officer did not directly address whether the Maintained Services were identical, through inclusion, to the Refused Services, but in my view it was not necessary for her to do so. The outcome was an inevitable and rational result of her comparison of the Parties' respective services and her subsequent assessment of the likelihood of indirect confusion.

24. The Hearing Officer had determined, at [75] that the following Maintained Services :

*Publication of books, magazines, almanacs and journals; Publication of journals; Publishing of journals; Publishing of journals, books and handbooks in the field of medicine; Publication of scientific information journals; Publishing of books; Publication of books; Publication of books, reviews;*

Had only a medium degree of similarity to the Opponent's Enhanced Services "providing non-downloadable electronic publications consisting of social media content; entertainment publishing services via social media; online publication of news and current affairs via social media". The Hearing Officer gave as a reason that "*The content of the publications differs and so there is minimal overlap in the services' nature and purpose, though there is an overlap in user and trade channels.*" That is rather compressed reasoning but it is of the kind commonly found in such decisions<sup>3</sup>. As noted, there is no appeal against this finding and, in particular, it is not pleaded that these services should have been found to be *Meric* identical to the services covered by the Earlier Mark.

25. Regarding the Maintained Services *Freelance journalism; Journalism services* at [78] the Hearing Officer held these were only similar to a medium degree to the Opponent's Enhanced Services.

26. At [94], the Hearing Officer held that there was only a likelihood of confusion "*for the applicants' goods/services which are the same as the goods and services for which the opponent has shown an enhanced distinctive character*".

27. This led to the Hearing Officer's formulation, at [99], of the list of Refused Services – in effect, it included only those the Hearing Officer had found to be *Meric* identical to those covered by the Earlier Mark, which do not include the Maintained Services.

28. From the findings that the Maintained Services were only similar to the Opponent's Enhanced Services it flows logically, and is implicit in the Hearing Officer's reasoning, that the Maintained Services are also not identical to the Refused Services. I am reinforced in that view by the fact that the Hearing

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<sup>3</sup> See *Extreme Networks Limited v Extreme Limited*, [2024] EWCA Civ 1386, per Arnold LJ at [31]

Officer clearly distinguishes between them when comparing them with the Opponent's Enhanced Services. Indeed, logically, any broad term in a specification can only be caught by the principle of *Merit* identity/inclusion as against a narrower term in its *own* specification if the broad term is also identical judged against the specification of the Earlier Mark. Since the unchallenged positive findings here are of medium similarity only and that there is no likelihood of confusion for such services – which finding (other than for “Freelance journalism; journalism services”) the Opponent has expressly pleaded it does not contest – the Opponent's appeal must fail.

29. In any event, leaving aside the technical construction of the pleaded Ground of Appeal it does not follow that the Refused Services are included within the Maintained Services - for example, that the Applicants' maintained “*Publication of books, magazines, almanacs and journals;*” is inclusively identical to the Applicants' narrower and refused “*Publication of electronic books and journals online*” or that “*publishing of journals*” is identical to “*multimedia publishing of journals*”. Applying *AVNET*, in my view the wider terms relate to physical products whilst the narrower terms relate to digital content, and as such are they are only similar to each other, although the level of similarity might be debated. The Hearing Officer's reasoning and conclusions are consistent with this approach. Certainly, it is the kind of evaluation on which tribunals might reasonably and legitimately differ.

30. Finally, whilst I do not regard it as a concession, I note that in its own written submissions to the Hearing Officer the Opponent stated:

*99. Although not all of the Opponent's Earlier Registered Marks here cover what one might consider traditional printed publications in class 16, i.e. hard copy physical product, as the Opponent is predominantly an online publisher and media company, clearly, it is now the norm for books, newspapers, journals, magazines, for a multitude of purposes, both general consumer, fiction and non-fiction, to be available in both printed and digital form. Therefore, there is a high degree of similarity between both types of publication.*

31. Thus, it seems the Opponent did itself regard physical and digital publications as similar rather than identical, and I see no reason why the same logic should not apply to publication services.

32. In the light of the above, I dismiss Ground 1.

**Ground 2 - Freelance journalism; Journalism services are identical to the Earlier Mark's online publication of news and current affairs**

33. At [65] The Hearing Officer held that “*Journalism involves collecting, preparing and distributing news, through print and electronic media*” and that *Freelance journalism; Journalism services* were of only

medium similarity to the Opponent's various publication services, a finding that carried through to the Opponent's Enhanced Services "*online publication of news and current affairs via social media*" at [78].

34. The Opponent submitted that "distribution" of news was identical to the "*online publication of news and current affairs*" at large on the basis that it is equivalent to the publication or making available of news.

35. As per *EXTREME NETWORKS*, the comparison of services is primarily a matter for the Hearing Officer. In this case the Hearing Officer concluded that the Opponent's publication services "*are not on all fours with journalism: they involve the making available of news but not necessarily the collecting or preparing of it.*"

36. Again, this reasoning is somewhat compressed, and notably does not include "distributing", but I am satisfied the Hearing Officer did not regard "distributing" news in the context of journalism to be identical to "making available", let alone "publishing", news, and that was a conclusion she was entitled to reach, given *AVNET*. Even if I had been persuaded that the matter should be reconsidered I would have considered distribution to be a precursor / ancillary service to publication and thus only similar thereto.

37. I therefore reject Ground 2 of the appeal, both as regards [65] and, the dependent challenge as regards the Opponent's Enhanced Services at [78].

### **The Opponent's Fallback Specification**

38. Somewhat unusually the Opponent asked, in its grounds of Appeal, that if "*if retention of the Maintained Class 41 Services in their entirety is not considered a material error, then the Appellant contends that a limitation should be included in the Respondent's Application to ensure that the points of identity are removed, such that class 41 in the Respondent's Application should be amended*" to exclude online publication/journalism services.

39. However, there is no logical/sensible basis for amending the specification in such a manner, which would amount to giving the Opponent success on the appeal by another route, contrary to my finding that the appeal has failed.

### **The Respondent's Notice**

40. Since the appeal has failed I do not need to consider the Respondent's Notice.

### **Overall Outcome**

41. The Appeal is dismissed in its entirety. The Hearing Officer's Decision is upheld in all respects.

### **Costs**

42. The Applicants as the successful party are entitled to costs. Both sides were content with costs "on the scale". In principle, the Applicants as unrepresented joint parties could submit a schedule of costs but Ms Efobi indicated she was content to leave the matter to me, which is an eminently sensible approach to take given the relatively small sums involved.

43. There was no award of costs below. Taking a broad-brush approach to this appeal I award the Applicants £1500, payable by The LadBible Group Limited to Chikamso Chinonye Efobi and Doxa Consulting Ltd within 21 days of the date of issue of this Decision.

Philip Harris  
Appointed Person

12 November 2025