O/1115/24

TRADE MARKS ACT 1994

IN THE MATTER OF REGISTRATION NO. 3760991
IN THE NAME OF BRANDING LINKS MANAGEMENT LTD
IN RESPECT OF THE TRADE MARK

OCTA

IN CLASSES 35, 36 & 42

AND

THE APPLICATION FOR INVALIDATION THEREOF UNDER NO. 506020
BY OKTA, INC.

Background and pleadings

1. Branding Links Management Ltd ("the proprietor") applied to register trade mark no. 3760991 for the mark OCTA in the UK on 2 March 2022. It was accepted and published in the Trade Marks Journal on 22 July 2022, and was registered on 7 October 2022 in respect of services in classes 35, 36 and 42, as set out later in this decision.

2. On 19 April 2023, Okta, Inc. ("the cancellation applicant") applied to invalidate the trade mark registration relying on section 47(2)(a) and on the basis of sections 5(2)(b) and 5(3) of the Trade Marks Act 1994 ("the Act"). The application for invalidation based on section 5(2)(b) is directed against only some of the services, whilst the application for invalidation based on section 5(3) is directed against all goods and services. This is on the basis of its UK comparable Trade Mark[1] no. 909115734 for the mark OKTA, with a priority date of 20 April 2010 and registration date of 2 November 2010. The cancellation applicant relies on all of its good and services in both grounds, those being goods and services in classes 9 and 42, as set out later in this decision.

3. By virtue of its earlier priority date, the cancellation applicant's registration constitutes an earlier mark in accordance with section 6 of the Act.

4. Under its 5(2)(b) ground, the cancellation applicant argues that the respective goods and services are identical or similar and that the marks are highly similar, and that as such there is a likelihood of confusion including a likelihood of association between the marks. In respect of the application for invalidation based on section 5(3) of the Act, the cancellation applicant claims that the marks are highly similar and that it holds a reputation for its mark in the UK. The cancellation applicant argues there will be a link between the marks, leading (without due cause) to an unfair advantage and to detriment to the distinctive character of its earlier mark.

[1] On 1 January 2021, the UK left the EU after the expiry of the transition period. Under Article 54 of the Withdrawal Agreement, the Registry created comparable UK trade marks for all right holders with an existing EUTM. As a result of the cancellation applicant's EUTM being registered as at the end of the Implementation Period, a comparable UK trade mark was automatically created. The comparable UK mark is now recorded on the UK trade mark register, has the same legal status as if it had been applied for and registered under UK law, and retains its original priority date.

5. The proprietor filed a counterstatement in which it confirmed it does not admit to similarity between the marks or to identity or similarity between the goods and services. It denies there will be a likelihood of confusion in respect of section 5(2)(b). The proprietor also stated it does not admit that the cancellation applicant holds a reputation under the mark for its goods and services in the UK, and puts the cancellation applicant to proof in respect of the same. Further, the proprietor denies there will be a link between the marks or that the mark will take unfair advantage of, or cause detriment to the distinctive character of, the earlier mark. The proprietor submits that the application for invalidation based on sections 5(2)(b) and 5(3) should be dismissed, and requests that the cancellation applicant provides proof of use of its earlier mark.

6. Both sides filed evidence in these proceedings. This will be summarised to the extent that it is considered necessary. Only the cancellation applicant filed written submissions which will not be summarised but will be referred to as and where appropriate during this decision. The proprietor did, however, provide an email explaining that the "parallel identical case" has reached a decision at the EU Intellectual Property Office ("EU IPO") and provided a copy of the same. No hearing was requested and so this decision is taken following a careful perusal of the papers.

7. The proprietor is represented in these proceedings by Lara Grant. The cancellation applicant is represented by CMS Cameron McKenna Nabarro Olswang LLP.

8. 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

9. As mentioned above, the proprietor in these proceedings has provided a copy of a decision dated 5 July 2024 issued by the EU IPO, with the refence B 3 186 355. The decision relates to an opposition filed against the EU designation of an International

Registration for the mark OCTA in the name of the proprietor, based on Article 8(1)(b) of the EU Trade Mark Regulations. The outcome of the opposition was that the proprietor's mark may proceed to registration in respect of services in classes 35 and 36, but not in respect of services in class 42. However, I highlight at this stage that I am not bound nor influenced by this decision. This application for cancellation will be considered on its own merits, and I will reach a conclusion that is entirely my own.

Evidence

10. The cancellation applicant filed its evidence in the form of a witness statement in the name of Ryan Cobb, dated 15 September 2023. Mr Cobb is the Intellectual Property Counsel at the cancellation applicant. The statement introduces 25 exhibits, namely Exhibit RC-1 to Exhibit RC-25. The evidence goes to the use of the earlier mark.

11. The proprietor filed its evidence in the form of a witness statement in the name of Lara Grant, Intellectual Property Lawyer and representative for the proprietor in the proceedings. The statement is dated 11 January 2024 and introduces three exhibits, namely Exhibit LG1, LG1B and LG2. The evidence goes to the proprietor's use of its mark.

Section 47 of the Act

12. The relevant parts of section 47 of the Act are set out below:

> "47. (1) […]
>
> (2) Subject to subsections (2A) and (2G), the registration of a trade mark may be declared invalid on the ground-
>
> > (a) that there is an earlier trade mark in relation to which the conditions set out in section 5(1), (2) or (3) obtain, or
> >
> > (b) that there is an earlier right in relation to which the condition set out in section 5(4) is satisfied,

unless the proprietor of that earlier trade mark or other earlier right has consented to the registration.

(2ZA) The registration of a trade mark may be declared invalid on the ground that the trade mark was registered in breach of section 5(6).

(2A) The registration of a trade mark may not be declared invalid on the ground that there is an earlier trade mark unless –

(a) the registration procedure for the earlier trade mark was completed within the period of five years ending with the date of the application for the declaration,

(b) the registration procedure for the earlier trade mark was not completed before that date, or

(c) the use conditions are met.

(2B) The use conditions are met if –

(a) the earlier trade mark has been put to genuine use in the United Kingdom by the proprietor or with their consent in relation to the goods or services for which it is registered-

(i) within the period of 5 years ending with the date of application for the declaration, and

(ii) within the period of 5 years ending with the date of filing of the application for registration of the later trade mark or (where applicable) the date of the priority claimed in respect of that application where, at that date, the five year period within which the earlier trade mark should have been put to genuine use as provided in section 46(1)(a) has expired, or

(b) it has not been so used, but there are proper reasons for non-use.

(2C) For these purposes –

(a) use of a trade mark includes use in a form (the “variant form”) differing in elements which do not alter the distinctive character of the mark in the form in which it was registered (regardless of whether or not the trade mark in the variant form is also registered in the name of the proprietor), and

(b) use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.

(2D)-(2DA) [Repealed]

(2E) Where an earlier trade mark satisfies the use conditions in respect of some only of the goods or services for which it is registered, it shall be treated for the purposes of this section as if it were registered only in respect of those goods or services.

(2F) Subsection (2A) does not apply where the earlier trade mark is a trade mark within section 6(1)(c)

(2G) An application for a declaration of invalidity on the basis of an earlier trade mark must be refused if it would have been refused, for any of the reasons set out in subsection (2H), had the application for the declaration been made on the date of filing of the application for registration of the later trade mark or (where applicable) the date of the priority claimed in respect of that application.

(2H) The reasons referred to in subsection (2G) are-

(a) that on the date in question the earlier trade mark was liable to be declared invalid by virtue of section 3(1)(b), (c) or (d), (and had not yet acquired a distinctive character as mentioned in the words after paragraph (d) in section 3(1));

(b) that the application for a declaration of invalidity is based on section 5(2) and the earlier trade mark had not yet become sufficiently distinctive

to support a finding of likelihood of confusion within the meaning of section 5(2);

(c) that the application for a declaration of invalidity is based on section 5(3)(a) and the earlier trade mark had not yet acquired a reputation within the meaning of section 5(3).

(3) […]

(4) […]

(5) Where the grounds of invalidity exist in respect of only some of the goods or services for which the trade mark is registered, the trade mark shall be declared invalid as regards those goods or services only.

(5A) An application for a declaration of invalidity may be filed on the basis of one or more earlier trade marks or other earlier rights provided they all belong to the same proprietor.

(6) Where the registration of a trade mark is declared invalid to any extent, the registration shall to that extent be deemed never to have been made: Provided that this shall not affect transactions past and closed."

13. As the earlier mark is a comparable mark, paragraph 9 of part 1, Schedule 2A of the Act is relevant. It reads:

"9.— (1) Section 47 applies where an earlier trade mark is a comparable trade mark (EU), subject to the modifications set out below.

(2) Where the period of five years referred to in sections 47(2A)(a) and 47(2B) (the "five-year period") has expired before IP completion day —

(a) the references in section 47(2B) and (2E) to the earlier trade mark are to be treated as references to the corresponding EUTM; and

(b) the references in section 47 to the United Kingdom include the European Union.

(3) Where IP completion day falls within the five-year period, in respect of that part of the five-year period which falls before IP completion day —

(a) the references in section 47(2B) and (2E) to the earlier trade mark are to be treated as references to the corresponding EUTM; and

(b) the references in section 47 to the United Kingdom include the European Union".

Proof of use

14. The relevant statutory provisions for proof of use in these proceedings are set out in section 47(2A) – (2E) and paragraph 9 of Schedule 2A above.

15. In *easyGroup Ltd v Nuclei Ltd & Ors* [2023] EWCA Civ 1247, Arnold LJ summarised the law relating to genuine use as follows:

"105. The principles applicable to determining whether there has been genuine use of a trade mark have been considered by the CJEU in a considerable number of cases, the principal decisions being Case C-40/01 *Ansul BV v Ajax Brandbeveiliging BV* [2003] ECR I-2439, Case C-259/02 *La Mer Technology Inc v Laboratories Goemar SA* [2004] ECR I-1159, Case C-416/04 P *Sunrider Corp* v *Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [2006] ECR I-4237, Case C-442/07 *Verein Radetsky-Order v Bundervsvereinigung Kamaradschaft 'Feldmarschall Radetsky'*[2008] ECR I-9223, Case C-495/07 *Silberquelle GmbH v Maselli-Strickmode GmbH* [2009] ECR I-2759, Case C-149/11 *Leno Merken BV v Hagelkruis Beheer BV* [EU:C:2012:816], Case C-609/11 *Centrotherm Systemtechnik GmbH v Centrotherm Clean Solutions GmbH & Co KG* [EU:C:2013:592], Case C-141/13 *P Reber Holding & Co KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [EU:C:2014:2089], Case C-689/15 *W.F. Gözze Frottierweberei GmbH v Verein Bremer Baumwollbörse* [EU:C:2017:434] and Joined Cases C–720/18 and C–721/18 *Ferrari SpA v DU* [EU:C:2020:854].

106. Ignoring issues which do not arise in the present case, such as use in relation to spare parts or second-hand goods and use in relation to a sub-category of goods or services, the principles may be summarised as follows:

(1) Genuine use means actual use of the trade mark by the proprietor or by a third party with authority to use the mark: *Ansul* at [35] and [37].

(2) The use must be more than merely token, that is to say, serving solely to preserve the rights conferred by the registration of the mark: *Ansul* at[36]; *Sunrider* at [70]; *Verein* at [13]; *Centrotherm* at [71]; *Leno* at [29]; *Ferrari* at [32].

(3) The use must be consistent with the essential function of a trade mark, which is to guarantee the identity of the origin of the goods or services to the consumer or end user by enabling him to distinguish the goods or services from others which have another origin: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Silberquelle* at [17]; *Centrotherm* at [71]; *Leno* at [29]; *Gözze* at [37], [40]; *Ferrari* at [32]

(4) Use of the mark must relate to goods or services which are already marketed or which are about to be marketed and for which preparations to secure customers are under way, particularly in the form of advertising campaigns: *Ansul* at [37]. Internal use by the proprietor does not suffice: *Ansul* at [37]; *Verein* at [14]. Nor does the distribution of promotional items as a reward for the purchase of other goods and to encourage the sale of the latter: *Silberquelle* at [20]-[21]. But use by a non-profit making association can constitute genuine use: *Verein* at [16]-[23].

(5) The use must be by way of real commercial exploitation of the mark on the market for the relevant goods or services, that is to say, use in accordance with the commercial *raison d'être* of the mark, which is to create or preserve an outlet for the goods or services that bear the mark: *Ansul* at [37]-[38]; *Verein* at [14]; *Silberquelle* at [18]; *Centrotherm* at [71].

(6) All the relevant facts and circumstances must be taken into account in determining whether there is real commercial exploitation of the mark,

including: (a) whether such use is viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods and services in question; (b) the nature of the goods or services; (c) the characteristics of the market concerned; (d) the scale and frequency of use of the mark; (e) whether the mark is used for the purpose of marketing all the goods and services covered by the mark or just some of them; (f) the evidence that the proprietor is able to provide; and (g) the territorial extent of the use: *Ansul* at [38] and [39]; *La Mer* at [22]-[23]; *Sunrider* at [70]-[71], [76]; *Centrotherm* at [72]-[76]; *Reber* at [29], [32]-[34]; *Leno* at [29]-[30], [56]; *Ferrari* at [33].

(7) Use of the mark need not always be quantitatively significant for it to be deemed genuine. Even minimal use may qualify as genuine use if it is deemed to be justified in the economic sector concerned for the purpose of creating or preserving market share for the relevant goods or services. For example, use of the mark by a single client which imports the relevant goods can be sufficient to demonstrate that such use is genuine, if it appears that the import operation has a genuine commercial justification for the proprietor. Thus there is no *de minimis* rule: *Ansul* at [39]; *La Mer* at [21], [24] and [25]; *Sunrider* at [72]; *Leno* at [55].

(8) It is not the case that every proven commercial use of the mark may automatically be deemed to constitute genuine use: *Reber* at [32]."

16. Section 100 of the Act states that:

"100. If in any civil proceedings under this Act a question arises as to the use to which a registered trade mark has been put, it is for the proprietor to show what use has been made of it."

17. The proprietor applied to register its mark on 2 March 2022. The relevant periods within which the cancellation applicant must prove use of its earlier mark are both the five-year period directly proceeding (and including) that date, namely 3 March 2017 – 2 March 2022, as well as the five-year period ending with the date the cancellation applicant applied to invalidate the mark, namely 20 April 2018 - 19 April 2023. Although

there are different periods to consider, there is clearly a significant overlap in these time periods, which to an extent, will therefore be considered together. Up until 31 December 2020 (the end of the transition period), the relevant territory for proving use is the EU (including the UK). After that date, the relevant territory will be the UK only.

18. In his statement, Mr Cobb explains that the cancellation applicant 'OKTA' is a technology company offering identity protection and access management software solutions that provide secure access to applications and services.[2] Mr Cobb outlines the specific software products and services offered as follows:[3]

- Okta Enterprise Edition
    - A solution to simplify user access to a range of enterprise applications with a single sign on. This can be integrated into applications used by a business, enabling users to authenticate their access via Okta with one set of log in credentials;
- Single Sign on
    - A cloud based solution allowing a central place to view, manage and secure employee's/contractor's access to different systems with a single login;
- Universal Directory
    - A cloud-based directory to customise, organise and manage user attributes for employees, contractors and customers, which integrates data across different systems;
- MFA
    - A solution to secure the apps and VPN of businesses with a second multifactor authentication.
- Lifecycles Management

[2] See paragraph 3.1 of the witness statement of Mr Cobb
[3] See paragraphs 3.2 – 3.2.9 of the witness statement of Mr Cobb

- A system to automate user onboarding and offboarding and provide a central view of users and their account access though seamless communication between directories and cloud applications;

- API security software

    - Products to secure access to application programming interfaces and application programming interface integrations. These provide identity-driven authorisation for any app or service;

- Identity Management for Office 365 & Mobility Management for Office 365

    - Solutions to enable secure and fast deployment of Microsoft Office to hundreds of employees and to enable Office 365 migration to mobile devices with enhanced security to control access to only trusted devices;

- Success Packages

    - Different levels of IT/computer support services to complement the above;

- Customer Identity and Access Management

    - A specialised solution aimed at helping businesses manage and secure customer identities, access and interactions across a digital platform.

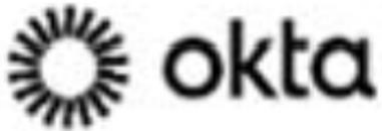
19. Mr Cobb states that Okta's 'administrator console' includes the functionality to monitor, analyse and report on the performance of the users' integrated systems, networks and applications.[4] Mr Cobb states that the cancellation applicant has offered a range of identity protection and access management solutions, including those referenced above, in the UK since 2013. He explains that its UK sales and marketing activities are conducted by its UK subsidiary, Okta UK Limited.[5] Turnover figures for the UK are provided between 2018 – 2022 as follows:[6]

[4] See paragraph 3.3 of the witness statement of Mr Cobb
[5] See paragraph 3.5 of the witness statement of Mr Cobb
[6] See paragraph 4.1.2 of the witness statement of Mr Cobb

Financial year ending	Turnover (GBP)	Increase on previous year
31 January 2018	17,241,868	53%
31 January 2019	22,126,445	28%
31 January 2020	31,835,501	44%
31 January 2021	38,176,577	20%
31 January 2022	59,146,373	55%

20. Mr Cobb confirms that between 2017 – 2023 he understands that UK revenue for the sale of goods and services under the OKTA mark has been close to USD 250 million.[7]

21. Exhibit RC-1 provides pages from the cancellation applicant's website. This shows the marks below at the top of the pages, as well as use of the mark 'okta' in text. However, I note the pages date from 31 July 2023, 2 August 2023 and 3 August 2023, outside of the relevant periods. The marks shown are as follows:



22. Mr Cobb explains that as of August 2023, there were 7.5 million registered users of Okta's goods and services in the UK.[8] Again, the date provided falls outside of the relevant period, however, considering the UK turnover figures demonstrated, it is safe to assume that at least a portion of this number will have been present within the relevant time periods.

23. Mr Cobb explains that its UK client's come from a range of sectors,[9] and provides 'case studies' of some of its clients at Exhibit RC-4. The case studies relate to fashion retailer Boohoo, café chain Pret a Manger, car retailer Cazoo, and charity organisation Oxfam. The case studies provided appear to be on a blog on the cancellation

[7] See paragraph 4.1.1 of the witness statement of Mr Cobb
[8] See paragraph 4.2.1 of the witness statement of Mr Cobb
[9] See paragraph 4.2.3 of the witness statement of Mr Cobb

applicant's website, entitled 'Okta's Customer Identity Trends Report 2023'. However, some further dates are provided within the blog itself. The case study relating to Boohoo is dated 7 December 2022. It refers to Boohoo using tools including LCM[10], 'identity cloud solutions' and Okta service reviews. The case study relating to Pret a Manger states it turned to Okta in 2018, and that by 2020, Pret a Manger was fully up and running with Okta, with 35 applications integrated to accelerate automation and minimise IT overhead. It states it uses Okta Single Sign-On and its Universal Directory, as well as Lifecycle Management and API Access Management, and Multi-Factor Identification. Part of the case study relating to Pret a Manger reads:

> "Like the chain itself, Pret's technology set up has grown gradually, according to need. It is a diverse, hybrid environment composed of SaaS, custom-made applications, and on-premises legacy systems that serve all aspects of the business, from HR to in-store processes. But managing each of these systems in isolation demanded a lot of time, manual work, and custom scripting.
>
> Suppliers in need of Pret's resources had to be manually granted access to the relevant system. If Pret changed suppliers, those identities had to be manually tracked and updated across all systems. Similarly, shop employees who needed access to specific applications relied on helpdesk support from Pret's IT team, who manually created generic identities for each branch and helped team members with anything from password reset to implementing new tools. "It wasn't a straightforward process," recalls Saville. "And as Pret quickly expanded, getting helpdesk support calls from every brand became unsustainable. Simple things such as password resets could easily escalate into a big efficiency problem, not to mention that we needed a stronger access management system from a security perspective," he explains.
>
> At around the same time that Saville and his team were focused on addressing this, Pret was about to implement a brand new HR system from Workday. This presented an opportunity to create individual user identities for each of its 12,000 global employees, enabling them to access the tools and information they need from any Pret branch with a proof of concept in its head office and a

[10] Which appears to be the Lifecycles Management system.

few UK branches. This involved testing Okta's compatibility with solutions that are key for Pret's daily operations, including its custom-made intranet, and measuring how efficient it would be to use Okta to provision these applications for different user groups across the business. Pret also gathered feedback around Okta's useability from head office users, shop staff and store managers. In under two weeks, Okta was set up and ready to go, trials during the proof of concept brought the whole project up to around one month.

Happy with the results and feedback, Pret ensured a smooth global rollout by working with a designated Customer Success Manager, who was always on hand to offer technical support and strategic advice, ensuring that Pret was well equipped to successfully run the implementation internally. "Most of my team became Okta experts at some stage of our journey thanks to the direct technical support we received from Okta," shares Saville.

"Previously, implementations that involved integrating on our on-premises and SaaS solutions were very complex, it could take days for us to work on the configuration between both sides. So we weren't expecting our Okta implementation to be so fast," Saville recalls. "We were impressed with the ease and speed of our Okta rollout. It was a huge success factor for us, right from the start."

….

"Pret shops are at the heart of our business, so we must ensure that they're always running optimally. From a technology perspective, this means selecting reliable, fast, and easy-to-use tools that let out employees focus on out customers. Okta ticks all those boxes. It truly simplifies things for us," Saville concludes.

24. It is not entirely clear from the case studies when Okta began working with Cazoo or Oxfam. Exhibit RC-6 also provides a page from Okta's website listing some of its customers, but the page itself is undated.

25. Exhibit RC-7 provides 'order forms' and 'reseller order forms' to customers in the UK between 2014 and for time periods running up until 2023. These list products

including MFA, Single Sign-on, Universal Directory, Basic Success Package, Premier Success Package, Lifecycle Management, API Products – Enterprise, Identity Management for Office 365 and Mobility Management for Office 365, although I note the final two are offered on forms dating prior to either relevant period. The marks on the order forms are shown below, with the older forms showing the first mark and the newer forms showing the second:

26. A number of articles dating between 2011 and 2016 are provided at Exhibit RC-8. These are all dated prior to the relevant period. Further articles from within at least the first relevant period are provided at Exhibit RC-9. These date between 2017 and 2019. Included are two articles dating from September 2017, and an article dating from 24 May 2018 from The Sun online, recommending people who have been victim of an email and password leak to use a tool called PassProtect. It states this is "… a free Google Chrome extension developed by cybersecurity firm Okta". There is a further article mentioning the same tool in a DailyMail online article dating from 23 May 2018. Two articles relating to a distribution deal between Okta and a company called Ignition are provided dating from 14 and 15 February 2019, which refer to the deal being in both the UK and the Nordic regions, and both of which refer to "…Okta's mission to extend an already solid presence in the UK…".

27. Exhibit RC-10 provides further press articles, dating between 2020 and 2021. In one article dating from 14 March 2020, Okta is named as one of "14 identity and & Access Management tools to deal with the coronavirus fallout." Okta is described as a IAM specialist, and as being based in San Francisco with offices in London, Amsterdam, Paris and Stockholm. Prices in the article are given in USD and so it seems unlikely it is aimed at a UK audience specifically. An article from 1 April 2020 discusses the launch of Okta FastPass, for a passwordless login experience across devices. An article from 4 May 2020 from Businessinthenews.co.uk describes Okta as "…the leading independent provider of identity for enterprise". An article in the Daily Mail online dated 3 March 2021 discusses Okta's acquisition of its smaller rival Auth0

in a $6.5 billion “all-stock deal”, which is said to be one of the largest software deals so far that year.

28. Exhibit RC-11 again provides articles mentioning Okta, dating between 2022 and 2023. Two articles dating from June and August 2022 discuss Okta’s $1,000,000 fund that has been set aside to provide cyber security training for non-profit organisations. It is not clear if these articles are aimed at UK consumers. An article from UK Tech News dated 5 June 2023 discusses Okta’s collaboration with Secure Code Warrior to create a new solution to secure developer workflows.

29. I have not provided details of all the articles provided in these exhibits. However, Mr Cobb has set out a useful table, outlining all the articles provided and the dates of the same, within paragraph 4.3 of his witness statement. This references a total of 34 articles between 1 September 2017 and 18 January 2023. Some of these articles refer to research undertaken by Okta rather than Okta products, and it is not always clear whether the UK consumer or EU consumer, is the intended reader, as opposed to, for example, a US audience. However, the table provided includes a useful synopsis of the articles, a number of which are relevant, and I have set the table out at Annex A to this decision for reference.

30. Within his witness statement, Mr Cobb makes reference to Okta’s global recognition and worldwide sales figures. Whilst this is noted, I do not consider it necessary to set this out in detail. However, he also provides a breakdown of the annual spend on advertising targeted at the UK as follows:

Year	Amount (USD)
2017	1,549,430.91
2018	1,970,145.49
2019	3,027,074.83
2020	5,408,719.17
2021	14,034,926.18
2022	15,313,816.86
2023 (to the end of August)	4,823,097.90
TOTAL	**46,127,211.34**

31. Mr Cobb sets out some examples of Okta's promotional activities, which he states include videos,[11] the production of whitepapers, reports and guides demonstrating its expertise,[12] webinars,[13] events,[14] and blogs.[15] He provides at Exhibit RC-17 examples of Whitepapers specific to the UK. The first is entitled "How Cloud-Based Identity Can Drive Cost Savings and Greater Efficiencies in UK Healthcare and Pharma". Whilst not dated as such, it refers to historic events in May 2017 and to 25 May 2018 as a future date. This refers to Okta supporting UK healthcare and pharmaceutical providers. The second paper is entitled "How Cloud-Based Identity Can Reduce Cost, Improve Collaboration and Drive Digital Transformation in the UK Public Sector". This refers to the end of 2020 in a future tense, and 2017 in the past tense. It states that the Okta Identity Cloud is already helping one UK City Council with 1,400 employees. It confirms they use Okta's Single Sign-on which it claims has "made staff more productive" and "freed up the council's IT staff to focus on adding value to the organisation in more strategic ways".

[11] See paragraph 6.2.1 of the witness statement of Mr Cobb
[12] See paragraph 6.2.2(a) of the witness statement of Mr Cobb
[13] See paragraph 6.2.3 of the witness statement of Mr Cobb
[14] See paragraph 6.2.4 of the witness statement of Mr Cobb
[15] See paragraph 6.2.5 of the witness statement of Mr Cobb

32. Mr Cobb mentions one event from 2018 in which former US president Barack Obama was the keynote speaker, and an article about this event is provided at Exhibit RC-19, although I note from this that this event was held in Las Vegas.

33. Mr Cobb also provides information about UK awards the cancellation applicant has sponsored including The Okta Future Leader Award at the Retail Week Awards,[16] and states they also operate their own "Oktane" awards scheme to recognise and celebrate innovative use of technology by business and individuals.[17] He also outlines that Okta has won industry awards, including Best Identity Management Solution at the SC Media Trust Awards 2020, and its product Okta Identity Cloud was also a finalist in Best IT Security-related Training Program at the same awards.[18]

34. Mr Cobb states that Okta is recognised by industry analysts including Forrester and Gartner as a "Leader" in the identity and access management (IAM) market.[19] To this point he provides what he describes as examples of "reports" where this finding is set out at Exhibit RC-24. This exhibit provides articles from the Okta website. One article states "Analyst research; Okta stands as clear leader in the IAM market". An illustration is then shown which appears to place the OneLogin product as having a stronger "current offering" and "strategy" than what appear to be its competitors, and this illustration appears to be labelled "The Forrester Wave: Identity as a Service For Enterprise, Q3 2021". There are various other diagrams also conveying Okta's strengths or its position as a 'Leader' or 'Challenger' in the market throughout the relevant time period provided, but it is not made clear from this exhibit that it holds this position in the UK (or EU) market specifically. Exhibit RC-25 provides similar pages from the Okta website reporting on results from analysts which comment on Okta's strong performance in the market as a whole, although again without specific reference to its position in the UK or EU.

35. The evidence provided by the cancellation applicant in these proceedings is extensive, and although I have not gone into great detail about each and every document filed, it has been considered in its entirety. I note some of this is not UK or EU specific, and some is undated. However, I keep in mind that it is not what each

[16] See paragraph 6.2.6(a) of the witness statement of Mr Cobb
[17] See paragraph 6.2.6(b) of the witness statement of Mr Cobb.
[18] See paragraph 7.1.1(a) of the witness statement of Mr Cobb.
[19] See paragraph 7.2.1 of Mr Cobb's witness statement.

individual piece of the evidence shows that is important, but the picture that the evidence creates as a whole that is key to my assessment.

Variant use

36. It is clear from the evidence that the cancellation applicant has used a number of different versions of its OKTA mark over time. However, I find that changes to the word mark OKTA shown in the evidence, namely the use of lowercase lettering, colour and a slightly stylised font, do not alter the distinctive character of the word mark.[20] Further, it is my view that where it is used alongside additional elements, 'okta' maintains an independent distinctive role within the mark used.[21] I therefore find all variations of the mark shown in the evidence to constitute acceptable variants of the mark as registered.

Use of the mark

37. Having considered the evidence as a whole, I have no doubt that the cancellation applicant has made genuine use of the mark OKTA (or acceptable variants of the same) in the UK[22] during the two relevant periods. The cancellation applicant has provided substantial, UK specific turnover and advertising figures for the majority of the two periods, and I also note the mention of the cancellation applicant's mark in the UK specific press articles provided. I note the narrative evidence from Mr Cobb explaining many of the products offered by the cancellation applicant in the UK, as well as the reference to the products in the corresponding exhibits, including for example, the UK order forms and case reviews. With consideration to the goods and services relied upon, it is my view that there has been genuine use of the mark in relation to the following:

[20] I note the earlier mark is filed as a word mark, which protects the words contained in the mark, whatever form, colour or typeface are used: see LA Superquimica v EUIPO, Case T-24/17, paragraph 39.
[21] In *Colloseum Holdings AG v Levi Strauss & Co.,* Case C-12/12, which concerned the use of one mark with, or as part of, another mark, the Court of Justice of the European Union found that the 'use' of a mark, in its literal sense, generally encompasses both its independent use and its use as part of another mark taken as a whole or in conjunction with that other mark, provided that it continues to be perceived as indicative of the origin of the product at issue.
[22] Which I consider to be a substantial part of the EU for the period falling prior to the transition date.

Class 9: *Computer software for the unification, management, optimization and integration of computer systems and networks, enterprise software applications and users; computer software for computer systems and network access control, digital identity authentication, security management and security application auditing.*

Class 42: *Computer services, namely, providing unification, management, optimization and integration of computer systems and networks, enterprise software applications and users; computer services, namely, providing computer systems and network access control, digital identity authentication, security management and security application auditing; computer services, namely, monitoring, analyzing, and reporting on the performance of computer systems, networks, and enterprise software applications.*

38. Whilst I note the cancellation applicant refers to an 'administrator console' providing the ability to "monitor, analyse and report on the performance of the users' integrated systems, networks and applications, as reflected in the goods and services covered by Okta's trade mark registration",[23] it is not clear from the evidence that this is a software product offered to its users, rather than simply a service offered by Okta, utilising the software for the purpose of providing the reporting service to its customers. Further, I do not consider the cancellation applicant to have provided evidence that it offers *computer software for the unification, management, optimization and integration of internet resources* or *computer services, namely, providing unification, management, optimization and integration of internet resources.* I therefore find no genuine use of the mark in respect of the following goods and services:

Class 9: *Computer software for the unification, management, optimization and integration of internet resources; Computer software for the monitoring, analyzing, and reporting on the performance of computer systems, networks, and enterprise software applications.*

Class 35: *Computer services, namely, providing unification, management, optimization and integration of internet resources.*

[23] See paragraph 3.3 of the witness statement of Mr Cobb

Fair specification

39. In *Euro Gida Sanayi Ve Ticaret Limited v Gima (UK) Limited,* BL O/345/10, Mr Geoffrey Hobbs Q.C. as the Appointed Person summed up the law as being:

> "In the present state of the law, fair protection is to be achieved by identifying and defining not the particular examples of goods or services for which there has been genuine use but the particular categories of goods or services they should realistically be taken to exemplify. For that purpose the terminology of the resulting specification should accord with the perceptions of the average consumer of the goods or services concerned."

40. In *Property Renaissance Ltd (t/a Titanic Spa) v Stanley Dock Hotel Ltd (t/a Titanic Hotel Liverpool) & Ors* [2016] EWHC 3103 (Ch), Mr Justice Carr summed up the law relating to partial revocation as follows (at [47]):

> "iii) Where the trade mark proprietor has made genuine use of the mark in respect of some goods or services covered by the general wording of the specification, and not others, it is necessary for the court to arrive at a fair specification in the circumstance, which may require amendment; *Thomas Pink Ltd v Victoria's Secret UK Ltd* [2014] EWHC 2631 (Ch) ("Thomas Pink") at [52].
>
> iv) In cases of partial revocation, pursuant to section 46(5) of the Trade Marks Act 1994, the question is how would the average consumer fairly describe the services in relation to which the trade mark has been used; *Thomas Pink* at [53].
>
> v) It is not the task of the court to describe the use made by the trade mark proprietor in the narrowest possible terms unless that is what the average consumer would do. For example, in *Pan World Brands v Tripp Ltd* (Extreme Trade Mark) [2008] RPC 2 it was held that use in relation to holdalls justified a registration for luggage generally; *Thomas Pink* at [53].

vi) A trade mark proprietor should not be allowed to monopolise the use of a trade mark in relation to a general category of goods or services simply because he has used it in relation to a few. Conversely, a proprietor cannot reasonably be expected to use a mark in relation to all possible variations of the particular goods or services covered by the registration. *Maier v Asos Pl*c [2015] EWCA Civ 220 ("Asos") at [56] and [60].

vii) In some cases, it may be possible to identify subcategories of goods or services within a general term which are capable of being viewed independently. In such cases, use in relation to only one subcategory will not constitute use in relation to all other subcategories. On the other hand, protection must not be cut down to those precise goods or services in relation to which the mark has been used. This would be to strip the proprietor of protection for all goods or services which the average consumer would consider to belong to the same group or category as those for which the mark has been used and which are not in substance different from them; *Mundipharma AG v OHIM* (Case T-256/04) ECR II-449; EU:T:2007:46."

41. It is my view that the goods and services as set out by the cancellation applicant are already sufficiently defined into appropriate subcategories of computer software and computer services, which are in my view, how the consumer would fairly describe the goods and services offered. I therefore find a fair specification to constitute those goods and services as relied upon by the cancellation applicant for which genuine use has been found.

Section 5(2)(b)

42. I have set out section 47 of the Act previously in this decision. Section 5(2)(b), as referenced in section 47(2)(a) of the Act, is as follows:

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

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

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

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

The principles

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

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

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

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

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

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

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

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

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

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

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

Comparison of goods and services

44. In the judgment of the Court of Justice of the European Union ("CJEU") in *Canon*, Case C-39/97, the court stated at paragraph 23 of its judgment that:

> "In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, inter alia, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary".

45. 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.

46. 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. 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."

47. In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU stated that complementarity is an autonomous criterion capable of being the sole basis for the existence of similarity between goods. In *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)***,** Case T-325/06, the General Court ("GC") stated that there is complementarity where:

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

48. In *Gérard Meric v Office for Harmonisation in the Internal Market,* Case T- 133/05, the GC stated that:

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

49. With the above in mind, the goods and services for comparison are as follows:

Earlier goods and services	**Contested services**
Class 9: Computer software for the unification, management, optimization and integration of computer systems and networks, enterprise software applications and users; computer software for computer systems and network access control, digital identity	Class 35: Computerized file management in relation to banking, finance and brokering; compilation of information into computer databases in relation to banking, finance and brokering; compilation of statistics in

authentication, security management and security application auditing. Class 42: Computer services, namely, providing unification, management, optimization and integration of computer systems and networks, enterprise software applications and users; computer services, namely, providing computer systems and network access control, digital identity authentication, security management and security application auditing; computer services, namely, monitoring, analyzing, and reporting on the performance of computer systems, networks, and enterprise software applications.	relation to banking, finance and brokering. Class 36: Brokerage; insurance brokerage; financial customs brokerage services; mutual funds; capital investment; exchanging money; fiscal valuation; financial evaluation [insurance, banking]; financing services; financial management; securities brokerage; financial analysis; financial consultancy; electronic funds transfer; providing financial information; issuance of tokens of value; stock exchange quotations; online banking; stock brokerage services; providing financial information via a website; investment of funds; stocks and bonds brokerage; financial research; electronic transfer of virtual currencies; e-wallet payment services; financial exchange of virtual currency. Class 42: Computer security consultancy in relation to banking, finance and brokering; data security consultancy in relation to banking, finance and brokering; electronic monitoring of personally identifying information to detect identity theft via the Internet; electronic monitoring of credit card activity to detect fraud via the Internet.

Class 35

Computerized file management in relation to banking, finance and brokering; compilation of information into computer databases in relation to banking, finance and brokering; compilation of statistics in relation to banking, finance and brokering.

50. The cancellation applicant argues that the above services are similar to its goods on the basis that software is indispensable to these services, and they are therefore complementary, and that the earlier goods in class 9 may also overlap in trade channels, users and purpose.

51. I disagree with the cancellation applicant that the class 9 goods are complementary to the services above. Whilst it may be the case that software generally is important to these services, it is not the case that the cancellation applicant's specific software goods will be important to the same. Further, I do not consider there to be an overlap in purpose, with the contested services being for managing files, and compiling information or statistics in relation to banking, finance and brokering, whilst the cancellation applicant's class 9 goods and the related services are to unify, manage, optimise and integrate computer systems and networks, applications, and users, or to control access to computer systems and networks, for digital identity authentication and security management and security application auditing. Whilst both the cancellation applicant's goods and services and these services are computer based, this is true for a huge number of different goods and services. The cancellation applicant's goods and services appear to be fairly specialised, and I have no evidence that there will generally be an overlap in trade channels with these contested services, and I do not consider there will be competition between the same. Whilst there may be an overlap in users, this will be at a general level, in the sense that they all may be used by businesses. Overall, I find the services *computerized file management in relation to banking, finance and brokering; compilation of information into computer databases in relation to banking, finance and brokering* and *compilation of statistics in relation to banking, finance and brokering* to be dissimilar to the goods and services relied upon by the cancellation applicant.

Class 36

Class 36: Brokerage; insurance brokerage; financial customs brokerage services; mutual funds; capital investment; exchanging money; fiscal valuation; financial evaluation [insurance, banking]; financing services; financial management; securities brokerage; financial analysis; financial consultancy; electronic funds transfer; providing financial information; issuance of tokens of value; stock exchange quotations; online banking; stock brokerage services; providing financial information via a website; investment of funds; stocks and bonds brokerage; financial research; electronic transfer of virtual currencies; e-wallet payment services; financial exchange of virtual currency.

52. The above services all relate to financial, brokerage or insurance services. The cancellation applicant argues that the use of software is indispensable to some of the contested goods above, for example in relation to *online banking; electronic transfer of virtual currencies; e-wallet payment services* and *financial exchange of virtual currency,* which it states are performed within software-based tools. The cancellation applicant argues that these all require the type of security services offered under the Okta mark. I agree that these types of services will all likely use the cancellation applicant's goods such as *computer software for digital identity authentication* for example. I understand that before a user is able access online banking for example, there will be a requirement for that user to prove their identity. However, whilst this software is therefore important to the offering of the services, in my view the relationship is not one that would result in the consumer assuming that the entity responsible for creating and providing the software for *digital identity authentication* for example, is the same entity that is providing online banking. On this point, for the most part, the intended user will be different, with online banking services for example being offered primarily at the general public (although of course it is true that businesses will also make use of these services), whilst software for *digital identity authentication* will be offered primarily to the business responsible for providing services, so that they may authenticate the identity of the user prior to those services being used. Whilst there may be some cross over of users with the general public or businesses generally, this will be at a high level of generality. I consider both sets of goods and services will be specialised, and I see no reason for trade channels to

normally be shared, nor do I consider them to be in competition, or to share a purpose. Overall, I find the cancellation applicant's goods in class 9, and for the same reasoning its services in class 42, to be dissimilar to the contested services in class 36 as outlined above.

Class 42

Computer security consultancy in relation to banking, finance and brokering; data security consultancy in relation to banking, finance and brokering; electronic monitoring of personally identifying information to detect identity theft via the Internet; electronic monitoring of credit card activity to detect fraud via the Internet.

53. The earlier services include *computer services, namely security management* in class 42. Whilst I do not consider these identical to the contested services *computer security consultancy in relation to banking, finance and brokering* with one being consultancy and one being management, I find there will be an overlap in the nature and purpose of the services, and that they will likely share users, namely businesses in banking, finance or brokering (to which both sets of services may relate) looking for advice and management in relation to their computer security. There may be an element of competition between the services, with these users either opting to engage consultancy services in respect of the same, or to engage someone to manage this security on their behalf. It appears likely trade channels will be shared. Overall, I find *computer security consultancy in relation to banking, finance and brokering* similar to the cancellation applicant's earlier services outlined to a high degree.

54. I consider that the contested *data security consultancy in relation to banking, finance and brokering* in class 42 will either fall within the meaning of, or at the very least be closely related to the contested *computer security consultancy in relation to banking, finance and brokering* with these services all likely to relate to security against online data breaches for example. Therefore, for the same reasons as set out above, I find these services to be highly similar to the earlier *computer services, namely security management.*

55. In respect of the contested services *electronic monitoring of personally identifying information to detect identity theft via the Internet* it is my view that these services fall

within the remit of the earlier *computer services, namely digital identity authentication, security management and security application auditing.* I therefore find these to be identical in accordance with the principles set out in *Meric*.

56. It is my view that *electronic monitoring of credit card activity to detect fraud via the Internet* will share a broad purpose with *computer services, namely digital identity authentication and security management* namely for the prevention/detection of fraudulent behaviour online. I find it unlikely there will be competition between the services, and I do not consider these to be complementary. There may be a general overlap in business users, and possibly an overlap in trade channels. Overall, I find these services to be similar to a between a low and medium degree.

57. In order for an application for invalidation on this ground to succeed, there must be some similarity between the goods or services. It therefore fails in respect of the contested services in classes 35 and 36 which I found to be dissimilar. I will therefore continue to consider the application for invalidation based on this ground only in respect of the class 42 services identified as identical or similar.

Comparison of marks

58. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a 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 marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The Court of Justice of the European Union stated 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 relative weight in the perception of the target public, and then, in the light of that overall impression and all factors relevant to the circumstances of the case, to assess the likelihood of confusion."

59. 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 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.

60. The respective trade marks are shown below:

Earlier trade mark	Contested trade mark
OKTA	OCTA

61. The earlier mark is the four-letter word OKTA. This comprises the whole of the mark and it is within this element that the overall impression of the mark resides.

62. The contested mark is the four-letter word OCTA. This comprises the whole of the mark and it is within this element that the overall impression of the mark resides.

Visual comparison

63. Visually, the marks coincide in three out of four of the letters used. They begin and end the in the same way. It is my view that the marks are visually similar to a high degree.

Aural comparison

64. It is my view that both marks will be pronounced in the same way, namely as OCK-TAH. In these instances, the marks will be aurally identical. I note it is possible that some consumers may pronounce the marks as initialisms, namely O-C-T-A and O-K-T-A. Where this is the case, I consider they are aurally similar to between a medium and high degree.

Conceptual comparison

65. I do not consider either mark will convey a concept to the UK consumer. I consider the marks to be conceptually neutral.

Average consumer and the purchasing act

66. 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: *Lloyd Schuhfabrik Meyer,* Case C-342/97.

67. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited,* [2014] EWHC 439 (Ch), Birss J. described the average consumer in these terms:

> "60. The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The words "average" denotes that the person is typical. The term "average" does not denote some form of numerical mean, mode or median."

68. The average consumers of the similar goods and services in this instance will primarily be business professionals. The goods and services include those engaged with by a business for the increased efficiency and security of their systems and internal processes. They may not be frequent purchases, and it is my view that consumers will pay a fairly high (but not the very highest) level of attention to the same, due to the significant impact choosing the right product and provider may have on the functioning and security of the business as a whole.

69. The goods and services will likely be purchased visually, with goods and service providers displaying their products and offerings on a website or via visual advertising. However, I note there may well be verbal recommendations, as well as telephone discussions and orders placed, and as such I cannot completely discount the verbal considerations.

Distinctive character of the earlier trade mark

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

> "22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *WindsurfingChiemsee* v *Huber and Attenberger* [1999] ECR I-0000, paragraph 49).
>
> 23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51)."

71. It is my view that earlier mark will appear to most consumers to be an entirely made-up word which will convey no meaning. I therefore consider it inherently distinctive to a high degree.

72. I note I have also considered the possibility that it will be viewed as an initialism. When viewed as a four-letter initialism, it is my view that the earlier mark will possess a lower degree of inherent distinctive character, although I still consider this will sit at a medium level.

73. When it comes to enhanced distinctiveness, it is the perception of the UK consumer at the relevant date that is key. The cancellation applicant has filed a significant amount of evidence in these proceedings. Not all the evidence filed is dated,

or aimed specifically at the UK consumer. That said, there is still significant evidence that assists in showing the use of the mark made in the UK prior to the relevant date. Notably, I consider the cancellation applicant's significant UK specific turnover figures, and UK targeted advertising spend. The turnover figures are fairly high, in the tens of millions, running to nearly 60 million GBP in the year ending January 2022. The marketing spend is also very significant, with over 14 million USD being spent on UK targeted advertising in 2021 and over 15 million USD being spent on the same in 2022. There is also reference to the cancellation applicant having large clients, such as Boohoo and Pret a Manger, and I note the UK targeted press articles referring to their significant presence in the market. However, I consider that the inherent level of distinctive character of the mark (where it is viewed as a made-up word) is already high, and with this in mind it is my view that the evidence does not suffice to show that it has been increased above this level to what I would consider would be an exceptionally high degree. However, I do consider that if the earlier mark is viewed as an initialism, the use of the same will have raised its distinctive character to a high degree in any case.

GLOBAL ASSESSMENT – Conclusions on Likelihood of Confusion

74. Prior to reaching a decision under section 5(2)(b), I must first consider all relevant factors, including those as set out within the principles A-K at paragraph 43 of this decision. I must view the likelihood of confusion through the eyes of the average consumer, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them they have kept in their mind. I must consider the level of attention paid by the average consumer, and consider the impact of the visual, aural and conceptual similarities of the marks by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. I must consider that the level of distinctive character held by the earlier mark will have an impact on the likelihood of confusion. I must remember that the distinctiveness of the common elements is key.[24] I must keep

[24] See *Kurt Geiger v A-List Corporate Limited*, BL O-075-13, in which Mr Iain Purvis Q.C. as the Appointed Person pointed out that the level of 'distinctive character' is only likely to increase the likelihood of confusion to the extent that it resides in the element(s) of the marks that are identical or similar.

in mind that a lesser degree of similarity between the goods may be offset by a greater degree of similarity between the marks, and vice versa. I must also consider that both the degree of attention paid by the average consumer and how the goods and services are obtained will have a bearing on how likely the consumer is to be confused.

75. There are two types of confusion that I may find. The first type of confusion is direct confusion. This occurs where the average consumer mistakenly confuses one trade mark for another. The second is indirect confusion. This occurs where the average consumer notices the differences between the marks, but due to the similarities between the common elements, they believe that both products derive from the same or economically linked undertakings.[25]

76. In *Duebros Limited v Heirler Cenovis GmbH,* BL O/547/17, Mr James Mellor Q.C. (as he then was), as the Appointed Person, stressed that a finding of indirect confusion should not be made merely because the two marks share a common element. In this connection, he pointed out that it is not sufficient that a mark merely calls to mind another mark. This is mere association not indirect confusion.

77. I reiterate at this stage that where I found the services to be dissimilar, there can be no likelihood of confusion for the purposes of section 5(2) of the Act.[26] The opposition under section 5(2)(b) of the Act fails in respect of those services.

78. In respect of the remaining services, I found these to range from identical to similar to between a low and medium degree. I found that a significant portion of consumers would view the earlier mark as a made-up word, and it is where this view is present that the cancellation applicant will be in the strongest position. In those circumstances, I found the marks to be visually similar to a high degree, aurally identical, and conceptually neutral. I found that consumers would primarily comprise business users, who would likely pay a high degree of attention in respect of the same, although not the very highest level. I found the earlier mark to be inherently distinctive to a high

[25] *L.A. Sugar Limited v Back Beat Inc*, BL O/375/10
[26] See *eSure Insurance v Direct Line Insurance,* [2008] ETMR 77 CA

degree, but whilst considerable use has been shown, I did not find this sufficient to raise its distinctive character above its already high level.

79. Considering all of the factors, and notwithstanding the high degree of attention paid by consumers, it is my view that where the contested services are similar to the earlier goods and services, there will be a likelihood of direct confusion between the marks. I find the use of a 'c' or a 'k' within the mark, may be easily forgotten or misremembered, especially considering there will be no conceptual meaning present in either mark to help the consumer recall the differences.

80. For completeness, I will also consider the likelihood of indirect confusion between the marks. In *L.A. Sugar* (cited above) Mr Iain Purvis Q.C. (as he then was), as the Appointed Person set out three examples of when indirect confusion may occur as below:

> 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)."

81. I note that the examples above were intended to be illustrative and are not exhaustive. I also keep in mind *Liverpool Gin Distillery Ltd & Ors v Sazerac Brands, LLC & Ors* [2021] EWCA Civ 1207, in which Arnold LJ referred to the comments of

James Mellor Q.C. (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.

82. It is my view that, should the differences between the marks be noticed and recalled, there would be no proper basis for a finding of indirect confusion in this instance. I see no logical reason that the same or connected entities would use a 'k' in some marks and a 'c' in other marks. As such the cancellation applicant's partial success on this ground is based on a likelihood of direct confusion only.

Section 5(3)

83. As mentioned, I have set out section 47 of the Act previously in this decision. Section 5(3) of the Act, as identified in section 47(2)(a) is as follows:

> Section 5(3) states:
>
> "(3) A trade mark which-
>
> is identical with or similar to an earlier trade mark, shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the United Kingdom and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark".

84. The relevant case law can be found in the following judgments of the CJEU: Case C-375/97, *General Motors,* Case C-252/07, *Intel,* Case C-408/01, *Adidas-Salomon,* Case C-487/07, *L'Oreal v Bellure* and Case C-323/09, *Marks and Spencer v Interflora* and Case C-383/12P, *Environmental Manufacturing LLP v OHIM.* The law appears to be as follows:

(a) The reputation of a trade mark must be established in relation to the relevant section of the public as regards the goods or services for which the mark is registered; *General Motors*, paragraph 24.

(b) The trade mark for which protection is sought must be known by a significant part of that relevant public; G*eneral Motors*, paragraph 26.

(c) It is necessary for the public when confronted with the later mark to make a link with the earlier reputed mark, which is the case where the public calls the earlier mark to mind; *Adidas Saloman*, paragraph 29 and *Intel*, paragraph 63.

(d) Whether such a link exists must be assessed globally taking account of all relevant factors, including the degree of similarity between the respective marks and between the goods/services, the extent of the overlap between the relevant consumers for those goods/services, and the strength of the earlier mark's reputation and distinctiveness; *Intel*, paragraph 42.

(e) Where a link is established, the owner of the earlier mark must also establish the existence of one or more of the types of injury set out in the section, or there is a serious likelihood that such an injury will occur in the future; *Intel*, paragraph 68*;* whether this is the case must also be assessed globally, taking account of all relevant factors; *Intel*, paragraph 79.

(f) the more immediately and strongly the earlier mark is brought to mind by the later mark, the greater the likelihood that use of the latter will take unfair advantage of, or will be detrimental to, the distinctive character or the repute of the earlier mark; *L'Oreal v Bellure NV*, paragraph 44.

(g) Detriment to the distinctive character of the earlier mark occurs when the mark's ability to identify the goods/services for which it is registered is weakened as a result of the use of the later mark, and requires evidence of a change in the economic behaviour of the average consumer of the goods/services for which the earlier mark is registered, or a serious risk that

this will happen in future; *Intel,* paragraphs 76 and 77 and *Environmental Manufacturing*, paragraph 34.

(h) The more unique the earlier mark appears, the greater the likelihood that the use of a later identical or similar mark will be detrimental to its distinctive character; *Intel*, paragraph 74.

(i) Detriment to the reputation of the earlier mark is caused when goods or services for which the later mark is used may be perceived by the public in such a way that the power of attraction of the earlier mark is reduced, and occurs particularly where the goods or services offered under the later mark have a characteristic or quality which is liable to have a negative impact of the earlier mark; *L'Oreal v Bellure NV,* paragraph 40. The stronger the reputation of the earlier mark, the easier it will be to prove that detriment has been caused to it; *L'Oreal v Bellure NV*, paragraph 44.

(j) The advantage arising from the use by a third party of a sign similar to a mark with a reputation is an unfair advantage where it seeks to ride on the coat-tails of the senior mark in order to benefit from the power of attraction, the reputation and the prestige of that mark and to exploit, without paying any financial compensation, the marketing effort expended by the proprietor of the mark in order to create and maintain the mark's image. This covers, in particular, cases where, by reason of a transfer of the image of the mark or of the characteristics which it projects to the goods identified by the identical or similar sign, there is clear exploitation on the coat-tails of the mark with a reputation (*Marks and Spencer v Interflora*, paragraph 74 and the court's answer to question 1 in *L'Oreal v Bellure).*

85. An application for invalidation based on section 5(3) of the Act can only be successful via the establishment of several individual elements. To be successful on this ground, the cancellation applicant must prove it holds a reputation for the earlier mark relied upon amongst a significant portion of the public. It must also be established that the marks are similar. If it is found both that the marks are similar and that the earlier mark holds a qualifying reputation it must then be shown that this reputation,

combined with the similarity between the marks, will result in the relevant public establishing a link between the marks. A link may be found on the basis that the later mark brings the earlier mark to mind. Importantly, if all three of these elements have been established, it must then be shown that the link made by the public will result in, or will be likely to result in, one of the pleaded types of damage.

86. The relevant date for consideration under section 5(3) of the Act is the application date of the contested mark, that being 2 March 2022. The cancellation applicant claims to hold a reputation in respect of all of its goods and services under its earlier mark in the UK at that date. However, following my assessment in relation to proof of use, the cancellation applicant may now only rely on the slightly narrower specification for which genuine use of the mark had been found.

Reputation

87. In *General Motors,* Case C-375/97, the CJEU held that:

> "25. It cannot be inferred from either the letter or the spirit of Article 5(2) of the Directive that the trade mark must be known by a given percentage of the public so defined.
>
> 26. The degree of knowledge required must be considered to be reached when the earlier mark is known by a significant part of the public concerned by the products or services covered by that trade mark.
>
> 27. In examining whether this condition is fulfilled, the national court must take into consideration all the relevant facts of the case, in particular the market share held by the trade mark, the intensity, geographical extent and duration of its use, and the size of the investment made by the undertaking in promoting it.
>
> 28. Territorially, the condition is fulfilled when, in the terms of Article 5(2) of the Directive, the trade mark has a reputation 'in the Member State'. In the absence of any definition of the Community provision in this respect, a trade mark cannot

be required to have a reputation 'throughout' the territory of the Member State. It is sufficient for it to exist in a substantial part of it."

88. As it is a reputation in the UK that is pleaded, and there is no mention of a reputation elsewhere within the EU prior to the end of the transition period, it is the UK focused evidence that I will consider for my assessment. In any case, I consider the UK to constitute a significant part of the EU territory in relation to the period prior to the end of the transition period.

89. I have set out much of the key evidence in relation to the cancellation applicant's use of its earlier mark in the UK when assessing proof of use. I reiterated, when considering whether I found an enhanced degree of distinctive character under the mark, that the UK specific turnover figures are large, and notably, the spend on UK specific advertising prior to the relevant date is also considerable. There is some UK specific press coverage provided from prior to the relevant date, although this is not extensive. However, I note the reference within this coverage to the cancellation applicant's "…mission to extend an already solid presence in the UK…" in articles from February 2019, and the reference to the cancellation applicant as "…the leading independent provider of identity for enterprise" in an article from May 2020 for example, although no specific information referring to the size of the market is provided. With consideration to the sum of the evidence and the picture this creates, it is my view that the cancellation applicant had a fairly strong reputation under its mark OKTA in the UK at the relevant date, in relation to the services for which genuine use has been established.

Link

90. I will now move on to consider if I find there will be a link made between the marks, with consideration to the relevant factors as set out in *Intel.*

<u>The degree of similarity between the conflicting marks</u>

91. In my assessment of the similarity of the marks, I found that to at least a significant portion of consumers they will be visually similar to a high degree, aurally identical, and conceptually neutral. Overall, I find the marks to be similar to a high degree.

The nature of the goods or services for which the conflicting marks are registered, or proposed to be registered, including the degree of closeness or dissimilarity between those goods or services, and the relevant section of the public

92. The application for invalidity based on section 5(3) of the Act is directed against a broader set of services than the application for invalidity based on section 5(2)(b) of the Act. I consider my assessment of the similarity of the goods and services conducted in relation to section 5(2)(b) of the Act can be applied again at this stage. Further, I must consider the similarity of the additional services with the goods and services relied upon. These are:

> Class 35: *Business management assistance in relation to banking, finance and brokering; business inquiries in relation to banking, finance and brokering; business management and organization consultancy in relation to banking, finance and brokering; business efficiency expert services in relation to banking, finance and brokering; market studies in relation to banking, finance and brokering; business investigations in relation to banking, finance and brokering; business research in relation to banking, finance and brokering; professional business consultancy in relation to banking, finance and brokering; economic forecasting in relation to banking, finance and brokering; providing business information in relation to banking, finance and brokering; providing commercial and business contact information in relation to banking, finance and brokering; commercial intermediation services in relation to banking, finance and brokering; providing business information via a website in relation to banking, finance and brokering; business intermediary services relating to the matching of potential private investors with entrepreneurs needing funding in relation to banking, finance and brokering; financial auditing in relation to banking, finance and brokering.*

93. The additional services above do not share a nature or specific intended purpose with the cancellation applicant's goods or services, and they do not appear to be

complementary or in competition with one another. Further, it appears unlikely that trade channels will ordinarily be shared. There may be an overlap in user, but only to the general extent that both the cancellation applicant's goods and services and those above may be engaged with by business professionals. This is not enough to find them similar, although it is noted for the purpose of my overall assessment on link.

94. However, that said, I note the proprietor's services *business efficiency expert services in relation to banking, finance and brokering* and *organization consultancy in relation to banking, finance and brokering.* Whilst not similar to the cancellation applicant's goods and services as such, these will share the high-level purpose of increasing the efficiency of a business with the cancellation applicant's earlier goods and services and will share business users looking for services in this field. Therefore, whilst not strictly similar, it is my view that there is a degree of closeness between these services and the cancellation applicant's earlier goods and services.

95. To a lesser extent, I also find this to be true for the contested services *business management assistance in relation to banking, finance and brokering; business management in relation to banking, finance and brokering*; and *professional business consultancy in relation to banking, finance and brokering.* Whilst these are not strictly similar to the cancellation applicant's goods and service offering, they are not entirely distant.

The strength of the earlier mark's reputation

96. I found the earlier mark to hold a fairly strong reputation in relation to its goods and services in the UK.

The degree of the earlier mark's distinctive character, whether inherent or acquired through use

97. I found that the earlier mark will hold a high degree of distinctive character.

Whether there is a likelihood of confusion

98. I have already found under section 5(2)(b) that where the goods or services are similar or identical, there will be a likelihood of direct confusion between the marks.

99. It is possible under section 5(3) for the reputation of an earlier mark to be such that the relevant consumer is likely to believe that the use of a contested mark in relation to similar or dissimilar goods or services will be use of the same or a similar mark deriving from the same or a connected economic entity. A finding of this nature would result in a conclusion that there is a likelihood that the consumer will be confused as to the origin of the marks either directly or indirectly under this ground.

100. In respect of the class 35 and 36 services for which I did not find confusion under section 5(2)(b), it is my view that there will also be no confusion under this ground. In respect of the additional services contested under this ground, for the majority of the same, considering all of the factors, it is my view that these services are too disparate from the goods and services covered by the cancellation applicant's reputation for there to be a real likelihood of confusion between the marks, even considering the fairly strong reputation shown. However, I find the following class 35 services to be the exception to this finding:

> *Business management assistance in relation to banking, finance and brokering; business efficiency expert services in relation to banking, finance and brokering; business management and organization consultancy in relation to banking, finance and brokering; professional business consultancy in relation to banking, finance and brokering.*

101. It is my view that an overarching aim of the above services is to increase the efficiency and improve the processes and running of an organisation. As such, considering the cancellation applicant's fairly strong reputation in goods and services which serve the same high-level purpose of increasing business efficiency, and considering the evidence provided showing the input the cancellation applicant has under its mark in respect of the overall functioning and management of its client's businesses, it is my view that when coming across what may be mistaken for an identical mark in relation to these services, there is a likelihood that the cancellation applicant's consumers will assume it has extended its offering to consult and advise on other related areas of business management and efficiency, such as those outlined above.

Conclusion on link

102. I remind myself at this stage that finding similarity between the goods and services, or indeed a likelihood of confusion, is not required to find a link between the marks, although the closeness of the goods and services is one factor to take into account when considering if the use of the later mark would bring the earlier mark to mind. However, it is my view in this instance, that in respect of the services for which I have found no likelihood of confusion, considering all of the factors, including completely different sectors the marks operate within, and notwithstanding the potential for both sets of goods and/or services to be used by businesses, there is unlikely to be a link made. Even if the circumstance were to arise that the same business user had dealings with both parties, and the use of the contested mark in respect of those services did cause a link to be made between the marks, it is my view that this link would be so fleeting that it would not give rise to damage. Therefore, in respect of the services for which no likelihood of confusion has been found, the application for invalidation based on section 5(3) must fail.

103. In respect of the services for which I have found there is a likelihood of confusion, I consider that a link between the marks is inevitable. Further, even if I am wrong about there being a likelihood of confusion, I still consider the circumstances sufficient to give rise to a link from which there is a potential for damage to follow, in respect of these services. The services for which I believe a sufficient link will be made are set out below:

> Class 35: *Business management assistance in relation to banking, finance and brokering; business efficiency expert services in relation to banking, finance and brokering; business management and organization consultancy in relation to banking, finance and brokering; professional business consultancy in relation to banking, finance and brokering.*
>
> Class 42: *Computer security consultancy in relation to banking, finance and brokering; data security consultancy in relation to banking, finance and brokering; electronic monitoring of personally identifying information to detect identity theft via the Internet; electronic monitoring of credit card activity to detect fraud via the Internet.*

104. I will now go on to consider if I find damage as pleaded in respect of the services set out above.

Damage

Unfair advantage

105. In this instance, I have found a link on the basis that consumers will wrongly believe that the marks derive from the same undertaking. It is, in my view, therefore inevitable that the use of the contested mark in relation to those services will give rise to an unfair advantage. This is on the basis that the consumers may engage the services of the proprietor based on the strength of the reputation of the earlier mark, without the proprietor needing to go to the effort and expense of promoting and marketing its services itself.

106. I add here that, in case I am wrong to have found a likelihood of confusion where I have, I nonetheless would find that there will be an unfair advantage to be gained by the proprietor by using the contested mark in respect of the services identified in paragraph 103 above, with it benefitting from its association with the earlier mark and its fairly strong reputation for services relating to an increase in business efficiency, thereby securing a commercial advantage as a direct benefit of the cancellation applicant's reputation.

107. As I have found for the cancellation applicant in respect of unfair advantage, I see no reason to consider its case in relation to the detriment to the distinctive character of its mark.

Final Remarks

108. The application for invalidation of UK registration no. 3760991 has been partially successful. Subject to any successful appeal, the registration will be treated to have never been registered in respect of the following services only:

> Class 35: *Business management assistance in relation to banking, finance and brokering; business management and organization consultancy in relation to banking, finance and brokering; business efficiency expert services in relation*

to banking, finance and brokering; professional business consultancy in relation to banking, finance and brokering.

Class 42: *Computer security consultancy in relation to banking, finance and brokering; data security consultancy in relation to banking, finance and brokering; electronic monitoring of personally identifying information to detect identity theft via the Internet; electronic monitoring of credit card activity to detect fraud via the Internet.*

109. Subject to any successful appeal, the contested mark will remain registered in respect of the remainder of its services.

COSTS

110. Both parties have achieved a relatively equal measure of success, and in the circumstances, I direct that each party bear its own costs.

Dated this 22nd day of November 2024

R. Le Breton

For the Registrar

Annex A

Date	Outlet	Headline
26 October 2011	Forbes	Okta: Saving Companies from the Dark Side of the Cloud
13 January 2014	AppsTechNews	Okta's Chris England on surprise at "rapid" UK IAM adoption
24 June 2014	The Register UK	Brit bank Barclays rolls out speech recognition for telephone banking (*Chris England, director at Okta comments on UK bank Barclays decision to move away from passwords*)
25 September 2014	ChannelPro	Okta out for channel mindshare – Cloud identity management vendor Okta making inroads to UK channel 12 months after landing (*article refers to Okta's UK customers after its first year in the UK including Gatwick Airport, Peterborough Council and M&C Saatchi*)
24 July 2014	Channel Pro UK	Okta Pursues European Partners For Cloud Service
6 September 2015	Professional Security	Securing cloud and mobile (*an article about IT security options for businesses by Phil Turner, VP EMEA at Okta*)

Date	Outlet	Headline
16 November 2016	CNBC	Foreigners keen on investing in UK tech: Okta
27 September 2017	The Register	Google slurps cloudy single-sign-on concern Bitium (*refers to Okta being named by Google as "a preferred identity and access management partner in the large enterprise segment" in August 2016*)
1 September 2017	ITPro	Okta and Palo Alto Networks team up on security platform
25 May 2018	The Sun	How to find out if your password has been leaked by hackers with this simple Google Chrome trick (*an article about the PassProtect Google Chrome extension developed by Okta*)
8 May 2018	ISBuzz	A Modern Identity System Can Ensure UK Citizens The Right To Vote (*Okta's Head of EMEA discusses the need for modern identity systems*)
24 May 2018	Daily Mail	Have hackers stolen YOUR password? New Google Chrome plugin will tell you if your details have been breached (*an article about the PassProtect Google Chrome extension developed by Okta*)
15 February 2019	Channel Pro	Ignition strikes distribution agreement with Okta
14 February 2019	Comms Business	Ignition takes identity management solutions from Okta
8 April 2019	Enterprise Times	Okta launches $50 million venture fund
11 March 2019	IT Pro	Okta to buy automation startup Azuqua for $52.2m
30 March 2020	Computing	Working from home, staying secure: 14 Identity & Access Management tools to deal with the coronavirus fallout (*article refers to Okta's identity and access management tools*)

Date	Outlet	Headline
20 May 2020	Commercial News Media	Okta research finds that just one in four UK workers want to go back to the office full-time
24 June 2020	Verdict	Most Brits believe contact-tracing data will be used for non-Covid purposes (*article refers to Okta's survey of online consumers around the world including over 2,000 people from the UK*)
12 September 2020	UK Tech News	Okta appoints Alvina Antar as CIO
1 April 2020	Channel Biz UK	Okta Unveils Okta FastPass: The End of Passwords at Work
19 May 2020	Information Age	One in four UK workers willing to return to the office full-time (*article includes comments by Okta's VP and General Manager EMEA on home working and security issues*)
16 October 2020	UKTechNews	Okta Unites User Identity and Device Identity for Customer-Facing Applications Through New Okta Devices SDK
5 May 2020	Business in the News	Okta Appoints Technology and Financial Services Veteran David Bradbury as Chief Security Officer
4 March 2021	Verdict	Auth0 to keep its identity in $6.5bn Okta acquisition – for now
4 March 2021	Daily Mail	Identity management firm Okta to buy Auth0 in $6.5 bln deal
15 April 2021	UK Tech News	Okta Announces Commitment to 100% Renewable Electricity
8 April 2021	UK Tech News	Okta announces new products and enhancements at Oktane21
2 August 2021	UK Tech News	Okta Welcomes John Zissimos as Chief Digital Officer
3 June 2021	Business in the News	Four in five Brits want to make it illegal to force employees to work from the office (*article refers to Okta's research with Censuswide on homeworking*)

Date	Outlet	Headline
21 October 2021	UK Tech News	Onfido Survey Reveals Businesses Must Establish Trust Online in Less Than 10 Minutes or Risk Losing Customers (*article refers to the study by Onfido and Okta on Internet users' relationship to digital services and digital identity*)
21 January 2022	UK Tech News	76% of Brits willing to adopt digital IDs as familiarity with vaccine passport tech increases (*article refers to the research by Okta and Statista on the UK attitude to digital IDs*)
13 January 2022	UK Tech News	Auth0 public sector index shows governments struggle to provide trustworthy online citizen services (*article refers to Auth0 as a product unit within Okta*)
26 September 2022	UK Tech News	Credential stuffing accounts for one-third of global login attempts, Okta finds
12 August 2022	Intelligent CISO	Okta for Good launches new grant portfolio to improve cybersecurity for non-profits
23 June 2022	IT Pro	Okta sets aside $1 million to support cyber security training for non-profits
21 January 2022	The Verge	1Password has plans to get companies to get companies to actually use one password (*article refers to Okta as a provider of single sign-on products*)
3 March 2022	Business World	"Okta to create 200 jobs in new Dublin office"
18 August 2022	IDG Connect	"Secret CSO: Jameeka Green Aaron, Auth0" (*article refers to acquisition of Auth0 by Okta*)
9 June 2022	UK Tech News	Secure Code Warrior and Okta Collaborate to Create New Solution to Secure Developer Workflows

Date	Outlet	Headline
18 January 2023	Facilitate Magazine	UK productivity crisis 'not due to hybrid working' (*article refers to research by Statista and commissioned by Okta into hybrid working*)