

**O-946-22**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF TRADE MARK APPLICATION NOS. 3514302 AND 3563316  
BY SOTA SOLUTIONS LIMITED IN RESPECT OF THE FOLLOWING TRADE  
MARKS**



**AND**



**IN CLASS 42**

**AND IN THE MATTER OF CONSOLIDATED OPPOSITION THERETO UNDER  
NOS. 422851 AND 424143 BY SOCIETE INTERNATIONALE DE  
TELECOMMUNICATIONS AERONAUTIQUES**

## **Background and pleadings**

1. Sota Solutions Limited (“the applicant”) applied to register the trade marks in the UK on 21 July 2020 and 2 December 2020, respectively. They were accepted and published in the Trade Marks Journal on 23 October 2020 and 29 January 2021, respectively. The other relevant details of both applications are shown below:

UK3514302	UK3563316
	
<b>Class 42: IT services</b>	

2. Societe Internationale de Telecommunications Aeronautiques (“the opponent”) oppose the trade marks on the basis of Section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). This is on the basis of its earlier UK registration 3360380 for the trade mark SITA. This registration has a filing date of 12 December 2018 and was registered on 8 March 2019. The opponent relies upon all its goods and services listed in classes 9, 35, 38 and 42, including the following term in Class 42: *IT services*.

3. The opponent submits that the respective marks are highly similar and that the dominant and distinctive element of the two challenged marks is the word SOTA that differs only by one letter from its SITA mark. It also asserts that the applicant’s services are identical to some of its Class 42 services and highly similar to its other goods and services. It concludes that, as a result, there exists a likelihood of confusion.

4. The applicant filed counterstatements denying that the respective marks are highly similar. It admits that its *IT services* are included in the opponent’s Class 42 specifications and are, therefore, identical.

5. The proceedings have been consolidated. The opponent provided written submissions, the applicant provided evidence and the opponent provided evidence-

in-reply. I will refer to these submissions and evidence to the extent considered necessary.

6. A Hearing took place on 8 September 2022, with the opponent represented by Mr Nick Zweck of counsel, instructed by Reddie & Grose LLP for and the applicant by Ms Stephanie Wickenden of counsel, instructed by J A Kemp LLP.

7. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 requires tribunals to apply EU-derived national law in accordance with EU law as it stood at the end of the transition period. The provisions of the Act relied upon in these proceedings are derived from an EU Directive. That is why this decision continues to refer to EU trade mark law.

### **Evidence**

8. In response to the opponent's submissions filed instead of evidence-in-chief, the applicant provided evidence in the form of a witness statement by Mr Paul Michael Cowham, co-founder and majority shareholder of the applicant, together with exhibits PMC1 – PMC4. He provides evidence on the history and nature of the applicant and the name "SOTA" as well as the nature of the IT services industry.

9. The opponent filed evidence in reply in the form of the witness statement of Mr Robert McLaughlin of Reddie & Grose LLP, the opponent's representative. The purpose of this Internet evidence is to introduce information regarding the types of services of various IT services providers.

### **Decision**

10. Section 5(2)(b) 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.”

11. Section 5A of the Act is as follows:

“5A Where grounds for refusal of an application for registration of a trade mark exist in respect of only some of the goods or services in respect of which the trade mark is applied for, the application is to be refused in relation to those goods and services only.”

12. The following principles are obtained from the decisions of the Court of Justice of the European Union (“the CJEU”) 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:

(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 services**

13. The applicant's specifications both consist of the single term *IT services* and this term appears in the opponent's Class 42 specification. It is, therefore, self-evident that the respective services are identical and this is accepted by the applicant.



## Comparison of marks

14. 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 CJEU 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.”

15. 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.

16. The respective trade marks are shown below:

Earlier trade mark	Contested trade marks
SITA	 ("the first mark") and  ("the second mark")

### *Comparison with the first mark*

17. The opponent's mark consists of the single word "SITA" and this is, self-evidently the dominant and distinctive element.

18. The first mark consists of a figurative element at the front of the mark and the word "sota" presented in lower case, both are presented in a denim-blue colour. The word "sota", despite being the second element scanning the mark left to right, contributes about three quarters of the mark's length. Further, as the only verbal element, it is the element that draws the attention. The opponent submits that the figurative element is not distinctive. I do not agree, it has a reasonably prominent position within the mark and whilst it is abstract in nature, it is capable of contributing to the distinctive character of the mark. I conclude that the word element is the dominant and distinctive element of the first mark but that the figurative element is also distinctive and contributes to the overall impression.

19. Visually, the opponent's mark presents as a single, four letter word. The first mark presents as two elements, the second of which is also a four letter word. This word shares the first, third and last letters with that of the opponent's mark. It differs in the different second letter where the "o" in the opponent's mark is replaced by an "l". I also note that the word "sota" in the first mark is presented in a slightly stylised font. The figurative element present at the start of the first mark has no counterpart in the opponent's mark. Mr Zweck submitted that the figurative element is not particularly large and it does not play a significant role in the mark. Whilst I accept that it is less dominant than the word element, it is distinctive and appears at the start of the mark and, as such, does play a visual role in the mark. I do not ignore the colour component of the applicant's mark but I keep in mind that notional and fair use of the opponent's mark will include use in the same colour. Taking all of this into account, I conclude that the respective marks share a medium level of visual similarity.

20. Aurally, the applicant's mark may be variously expressed as the two syllables SO-TA, SOT-A. SOW-TA or SOWT-A. The figurative element has no aural characteristics. The opponent's mark may be variously expressed as the two syllables SI-TA, SIT-A, SEE-TA or SEET-A. Mr Zweck submitted that, aurally, the only difference falls in the

middle of the respective word elements and he contended that, therefore, the effect of the difference is much reduced. He also pointed out that the “important” first letter is shared as is the “snappy” “TA” sound. It is clear from these submissions that Mr Zweck’s position is the marks consist of the syllables SO-TA and SI-TA, respectively. That said, whichever way the consumer expresses the respective marks will have little impact upon the level of aural similarity. Ms Wickenden submitted that despite only a quarter of the letters are different, half of the vowels are which gives rise to a noticeably different sound. The best case scenario is that a consumer will express the applicant’s mark as SO-TA and its mark as SI-TA. These are the most similar of the comparisons. I consider a significant number of the relevant consumer will express the respective marks in this way and because the first syllables are both short and begin with the same sound and because the second syllables are identical, I conclude that the marks are similar to a reasonably high level.

21. The opponent submits that, conceptually, SOTA is an acronym for the phrase “state of the art” and that its mark SITA is an acronym for its company name. However, I agree with Ms Wickenden’s submission that neither of these are likely to be known by the relevant consumer and there is no evidence to dispel this view. Consequently, the marks will both present as invented words with no conceptual hook and are, therefore, conceptually neutral.

#### *Comparison with the second mark*

22. The second mark consists of the words “sota” and “connect” presented in their independent but touching borders and in reversed and contrasting dark and light backgrounds and letters. This get up has more than a negligible impact upon the mark but it is the two words that are the dominant elements of the mark. As pointed out by Mr Zweck, the word “Connect” can have an obvious meaning relevant to the services in issue. Therefore, whilst it shares equal dominance in the mark with the word SOTA, it is this latter word that is the dominant distinctive element of the mark.

23. Visually, the level of similarity is lower than in my previous consideration because of the longer word element “connect” that creates a greater level of difference than the figurative element in the applicant’s first mark. I also keep in mind the difference



between the marks created by the presentation of the words in the applicant's mark in contrasting colours. In light of all of this, I find that the level of visual similarity is reasonably low.

24. Aurally, the applicant's mark consists of four syllables SO-TA-CON-NECT. I keep in mind the possible variations in expression of the words SOTA and SITA, as discussed in paragraph 20 above. As a result of these considerations, I conclude that the additional two syllables, absent in my previous considerations, result in a reduced level of aural similarity. I disagree with Mrs Wickenden's submission that the additional differences when comparing these two marks results in "no possibility of aural similarity". The common occurrence of the SITA/SOTA elements does create similarity, but I would put it no higher than low to medium.

25. I keep in mind my previous comments regarding the conceptual comparison between the applicant's SOTA mark and the opponent's SITA mark. In the current comparison, the presence of the word CONNECT in the applicant's mark creates a concept absent in the opponent's mark, but in other respects, the marks are conceptually neutral.

### **Average consumer and the purchasing act**

26. 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.

27. 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.”

28. At the hearing this was a key battleground between the parties with the opponent Submitting that *IT services* is a very broad term and covers services provided direct to consumers, including lay consumers who will pay a normal degree of attention as well as to other businesses. On the other hand, the applicant submitted that because of the nature of the services, the level of care and attention is high regardless of who the consumer is. I agree with the opponent that the term covers a broad range of services and includes everything from those provided to lay consumers, through to providing bespoke services to meet the needs of large companies with complex needs for IT services. I do not agree with the applicant’s submission that the level of care and attention is always high. I accept that the level of care and attention is likely to be slightly higher than average, but that in respect of some consumers, it is no more than that. Ms Wickenden accepted that my assessment of likelihood of confusion should be made with regards to the part of the public whose level of attention is lower. I explore the issue of identifying who the consumer is for such services below.

29. The parties’ *IT services* term is listed in their Class 42 specifications. It is common ground that this class does not include installation, maintenance and repair of computer hardware<sup>1</sup> but repair can be in the form of, for example, computer virus protection services and data encryption services (both being specifically listed in WIPO’s Explanatory Note<sup>2</sup>). The opponent has provided evidence<sup>3</sup> in an attempt to illustrate the range of services by IT services providers and Mr Zweck helpfully summarised this at the hearing. He referred me to numerous examples of businesses offering IT services for ordinary lay consumers. These services include system setup, residential IT, computer help such as data backup and restore, cloud sync, virus removal and optimisation. Ms Wickenden submitted that this evidence is not objective and has been cherry-picked to support the opponent’s position. I have no doubt that

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<sup>1</sup> As per the WIPO’s Explanatory Note for Class 42 - [Nice Classification \(wipo.int\)](http://www.wipo.int)

<sup>2</sup> Ditto

<sup>3</sup> Mr McLaughlin’s witness statement and Exhibit RM01

the evidence was selected to support the opponent's position, but this is not sufficient reason to ignore it. It clearly illustrates that IT services are provided to individuals and small businesses, something that I find wholly unsurprising and is consistent with my experience as a personal laptop user and my impression that these services are widely provided.

30. Ms Wickenden submitted that the process of procuring such services is not "completely mundane". She directed me to the finding in *Digipos* where it was claimed that such services will be selected "with considerable care by knowledgeable and discriminating consumers".<sup>4</sup> In *Digipos*, the consideration was in respect of "specialist IT equipment, software and services" and is arguably different to the services at issue in the current case. Specialist IT services may be only a sub-set of *IT services* at large and, as a consequence, the comment may not have been intended to apply to the same issue as here. Mr Zweck submitted that this was a view expressed by Mr Alexander QC rather than a finding in that case. In light of all of this, I consider the comments in *Digipos* are not binding on me but it is an expression of a view that I keep in mind.

31. Therefore, in respect of ordinary members of the public, I conclude that the level of care and attention will be higher than average but not high. I consider that such a finding is not limited to members of the general public but also to small businesses that do not rely upon any specialist IT equipment and who may need to access the same types of IT services that are of interest to the laptop/PC owning members of the general public.

32. The purchasing process is likely to be visual in nature but there will also be circumstances where aural considerations may also play a part where the consumer relies upon an aural recommendation or upon an advertisement, for example on a local radio station.

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<sup>4</sup> *Digipos Store Solutions Group Ltd v Digi International Inc* [2008] RPC 24 (HC) AT [97]

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

33. 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 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-0000, paragraph 49).

34. 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 opponent claims that its mark has no meaning to the UK consumer and is, therefore, endowed with a high level of inherent distinctive character. I agree with this assessment. There is no claim to an enhanced level of distinctive character through use.

## **GLOBAL ASSESSMENT – Conclusions on Likelihood of Confusion**

35. In determining whether there is a likelihood of confusion, a number of factors need to be borne in mind. The first is the interdependency principle i.e. a lesser degree of similarity between the respective marks may be offset by a greater degree of similarity between the respective goods and services and vice versa. It is also necessary that I keep in mind the distinctive character of the opponent's trade mark as the more distinctive the trade mark is, the greater the likelihood of confusion. I must also keep in mind the average consumer for the goods and services, the nature of the purchasing process and the fact that the average consumer rarely has the opportunity to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has retained in his mind.

36. In *O2 Holdings Limited, O2 (UK) Limited v Hutchison 3G UK Limited*, Case C-533/06, the CJEU stated at paragraph 66 of its judgment that when assessing the likelihood of confusion under Section 5(2) it is necessary to consider all the circumstances in which the mark applied for might be used if it were registered.

37. In summary, I have found:

- The respective services are identical;
- The SOTA word element is the dominant and distinctive part of both of the applicant's marks;
- The word SITA is the only element of its mark and thus, the dominant and distinctive element;
- In respect of the applicant's first mark, I have found it shares a medium level of visual similarity and a reasonably high level of aural similarity to the opponent's mark and that they are conceptually neutral;
- In respect of the applicant's second mark, I have found it shares a reasonably low level of visual similarity and no higher than a low to medium level of aural similarity with the opponent's mark. In respect of the conceptual comparison, I noted that the word CONNECT creates a concept absent in the opponent's mark but otherwise, the respective marks were conceptually neutral;
- The average consumer ranges from ordinary members of the general public through to large businesses with complex IT requirements;
- The level of care and attention during the purchasing process can vary depending on which of these average consumers is involved. I have found that for the general public and small businesses without bespoke computer systems, the level of care and attention will be higher than average and that for larger businesses with more complex IT requirements, the level of care and attention will be high;
- The purchasing process will be visual or a combination of aural and visual in nature;
- The opponent's mark is endowed with a high level of distinctive character.

38. Mr Zweck submitted that it is well established<sup>5</sup> that verbal elements of marks usually have a stronger impact than the figurative element and that the figurative elements in both of the applicant's marks are not particularly large. I have already found that the word SOTA is the dominant distinctive element of both marks and I agree with Mr Zweck. Mr Zweck also pointed to the aural similarities and that in the absence of conceptual hooks, visual and aural similarity have greater importance. Once again, I agree. Mr Zweck did recognise the concept attached to the word CONNECT in the applicant's second mark but submitted that this word is entirely descriptive in the context of the provision of *IT services*. Again, I agree.

39. Ms Wickenden referred to a Google search for SITA<sup>6</sup> and the fact that it did not return any results for SOTA and vice-versa and submitted that it would be unlikely that a consumer would be presented with one when searching for the other. I dismiss this submission because it would substitute the average consumer in the global assessment with a Google algorithm. Whether such an algorithm picks up one of the marks with searching for the other is not the test I must apply. Rather, I must consider the issue of confusion from the viewpoint of the average consumer.

40. Ms Wickenden also pointed to the fact that the applicant is unaware of any actual instances of confusion despite the applicant providing IT services for 25 years and the opponent for an even longer time. Ms Wickenden relied upon the following two cases to support this:

- (i) *JW Spear & Sons Ltd v Zynga Inc* [2015] EWCA Civ 290 where it was stated at [181]:

"....The principle reason for [refusing the appeal despite not agreeing with the first instance judge's approach] is that the extent of side by side use would be expected to have produced far more abundant evidence of confusion. The factors relied on by Zynga must, therefore, be sufficient in combination with the small difference between mark and sign, to eliminate the risk of real confusion occurring amongst a significant proportion of the public."

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<sup>5</sup> Mr Zweck claimed that verbal elements being more easily referred to, as noted in *Wassen International v OHIM – Straschein Gesundheitskost*, Case T-312/03

<sup>6</sup> At Exhibit PMC4

- (ii) *easyGroup Ltd v Nuclei Ltd* [2022] EWHC 901 (Ch) at [309] where Bacon J summed up the position as:

“...a lack of evidence of confusion may contribute to a finding of non-infringement where the extent of side-by-side use of the mark and the disputed sign, and the efforts put into finding evidence of confusion, are such that if there was a likelihood of confusion one might expect more abundant evidence of that to have emerged...”

41. However, these were infringement cases and actual confusion is the relevant issue but in proceedings before the Registry, the courts have commented that actual confusion is rarely significant. In *Roger Maier and Another v ASOS*, [2015] EWCA Civ 220, Kitchen L.J. stated that:

“80. ....the likelihood of confusion must be assessed globally taking into account all relevant factors and having regard to the matters set out in *Specsavers* at paragraph [52] and repeated above. If the mark and the sign have both been used and there has been actual confusion between them, this may be powerful evidence that their similarity is such that there exists a likelihood of confusion. But conversely, the absence of actual confusion despite side by side use may be powerful evidence that they are not sufficiently similar to give rise to a likelihood of confusion. This may not always be so, however. The reason for the absence of confusion may be that the mark has only been used to a limited extent or in relation to only some of the goods or services for which it is registered, or in such a way that there has been no possibility of the one being taken for the other. So there may, in truth, have been limited opportunity for real confusion to occur.”

42. In *The European Limited v The Economist Newspaper Ltd* [1998] FSR 283 Millett L.J. stated that:

"Absence of evidence of actual confusion is rarely significant, especially in a trade mark case where it may be due to differences extraneous to the plaintiff's registered trade mark."

43. Taking all of this into account, the lack of knowledge of any instances of actual confusion does not influence my considerations here. In reaching this conclusion, I also keep in mind that there is no evidence that respective businesses of the parties have overlapped in the market place. The wide range of services that fall under the term *IT services* may permit businesses to provide a variety of services under this term that are not in competition in any way with other companies providing *IT services* but target different consumer groups. Therefore, in the absence of any evidence that the parties are in competing fields a lack of actual confusion is of little persuasive value.

44. Considering the issue of likelihood of confusion between the opponent's mark and the first mark, I have accepted Mr Zweck's submissions regarding similarity of the respective marks (see paragraph 38 above). These all point towards a finding of a likelihood of confusion. On the other hand, Ms Wickenden submitted there was no likelihood of confusion based on her submissions that the respective marks share a low or very low level of similarity including a low level of visual similarity. She submitted that a consumer paying an above average degree of attention is capable of recognising the difference between the vowels "o" and "i". On this last point, it has been recognised<sup>7</sup> that it is permissible to take the length of a word into account and that one letter difference in a word that is only four letters long is more significant than a single letter difference in a longer mark. In the current case, whilst I do not agree with Ms Wickenden regarding her characterisation of the level of similarity, a higher-than-average degree of care and attention is a factor pointing away from a likelihood of confusion. The difference in the second letter of the word element of the respective marks is a difference that is not likely to go unnoticed. The narrow letter "l" compared the wide letter "o" creates a visual distinction. I also keep in mind the additional figurative element and get-up of the applicant's mark together with the aural difference created by the different second letters. Taking all of this together, when comparing

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<sup>7</sup> See, for example, Ms Amanda Michael's comments when sitting as the Appointed Person in *YELP Trade Mark*, BL O-021-13 at para 34.



each of the respective marks as a whole, I conclude that these factors outweigh the factors that might otherwise point towards confusion, and I find that there is no likelihood of confusion even though identical services are involved.

45. In respect of the applicant's second mark, I keep in mind the presence of the word CONNECT but accept the submissions of the opponent that this is not distinctive for *IT services* because, as Mr Zweck submitted, connectivity is a central concern of *IT services*. It is established that descriptive and non-distinctive matter is given less weight when comparing marks.<sup>8</sup> Nevertheless, I keep in mind my previous comments regarding the similarity of the SOTA/SITA elements and I also keep in mind the get-up of the applicant's mark. Taking all of this into account, I conclude that my finding of no likelihood of confusion applies equally to the second mark.

46. In summary, I find that there is no likelihood of confusion between the applicant's marks and the opponent's mark.

47. In light of this finding, it is not necessary that I consider the applicant's fall back position of offering a restricted specification of services.

## **Summary**

48. The oppositions fail in their entirety against both of the applicant's marks and, subject to any appeal, these marks can proceed to registration.

## **COSTS**

49. The applicant has been successful and is entitled to a contribution towards its costs. In the circumstances I award the applicant the sum of £1700 as a contribution towards the cost of the proceedings. The sum is calculated as follows:

Considering the other side's Form TM7 and preparing and filing the counterstatement:

£300

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<sup>8</sup> *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*, Case C-342/97, paras 22 and 23

Preparing evidence and considering other sides submissions and evidence: £800

Preparing for, and attending hearing: £600

**Total: £1700**

50. I therefore order Societe Internationale de Telecommunications Aeronautiques to pay Sota Solutions Limited the sum of £1700. The above sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

**Dated this 31<sup>st</sup> day of October 2022**

**Mark Bryant**  
**For the Registrar**