

**TRADE MARKS ACT 1994**

**IN THE MATTER OF APPLICATION NO 8717  
BY MIDLAND WHEEL SUPPLIES LIMITED  
FOR REVOCATION OF AND A DECLARATION OF INVALIDITY  
IN RESPECT OF TRADE MARK NO 1415893 IN THE  
NAME OF TECH-DEL LIMITED (PREVIOUSLY  
MINILITE WHEELS LIMITED)**

## TRADE MARKS ACT 1994

5 **IN THE MATTER OF Application No 8717**  
**by Midland Wheel Supplies Limited**  
**for Revocation of and a Declaration of Invalidity**  
**in respect of Trade Mark No 1415893 in the**  
10 **name of Tech-Del Limited (previously**  
**Minilite Wheels Limited)**

### DECISION

15 Trade mark number 1415893, MINILITE, is registered in Class 12 in respect of “Lightweight eight spoke magnesium wheels, all for motorcars; lightweight magnesium or aluminium wheels for motorcars.”

20 The registration stands in the name of Tech-Del Limited. The registration was previously owned by Minilite Wheels Limited but during the course of these proceedings was assigned to Foray 965 Limited whose name was subsequently changed to Tech-Del Limited. Nothing turns on the assignment and change of name, in my view.

25 By application dated 1 November 1995 Midland Wheel Supplies Limited applied for this registration to be revoked and declared invalid on the following grounds

- 30
- i under Section 46(1)(c) in that, in consequence of acts or inactivity of the proprietor and/or the former proprietor, the mark has become the common name in the trade for the goods at issue
  - ii under Section 47(1) in that the mark was registered in breach of Sections 3(1)(b), (c) and (d) of the Act.

35 The registered proprietors filed a counterstatement denying the above grounds and ask for refusal of the application. Both sides ask for an award of costs in their favour.

40 Both sides filed evidence in these proceedings. The matter came to be heard on 31 July 1998 when the applicants were represented by Mr David R Cowan of Lewis & Taylor, their trade mark agents and the registered proprietors were represented by Mr M C Hicks of Counsel instructed by Bowles Horton, their trade mark agents.

#### Applicants' evidence

45 The applicants filed two statutory declarations. The first, dated 26 June 1996 comes from Christopher John Brown, the Managing Director of Midland Wheel Supplies Limited, a position he has held since 1987. He firstly describes his background in the wheel industry and

says that from his early years in the business he became aware of a particular style of alloy wheel known under the name “minilite” which was fitted to motor vehicles known as MINIS and also to other vehicles. Originally these wheels were made of magnesium and were produced by Tech Del Ltd of Acton, London and were fitted to a sports version of the MINI car called the MINI COOPER. During his time trading as John Brown Wheels “minilite” wheels were sourced from Tech Del Ltd or a company called Minilite Ltd. He says that Tech Del Ltd went into receivership in 1983 and it became impossible to obtain supplies of the “minilite” style of wheel from that company. Other sources were, therefore, used. He refers to two companies in Italy, called GB and Mistral. The wheels were often advertised and sold as “minilites” but were not always of the same design as the original “minilite” wheels. They are said to have been referred to as lookalikes or replicas due to these differences. During the whole of the period from about 1983 until 1991 “minilite” wheels were obtained from sources other than Tech Del Ltd and Minilite Ltd.

Mr Brown says that in 1989 he decided to source “minilite” wheels from suppliers in this country and in 1990 he ordered a batch of such wheels from Pleck Aluminium Castings Ltd. He exhibits (CJB1) an order in support of this. Since that date he says he has obtained his own supplies of such wheels and sold them throughout the United Kingdom under the name MINILITE or MINILIGHT and none of these wheels have originated from Minilite Ltd or Minilite Wheels Ltd.

Mr Brown goes on to refer to a High Court action commenced against his company by Minilite Wheels Ltd for alleged infringement of the latter’s common law rights in the trade name “minilite”. The case has not, it seems, been resolved. Action has also been threatened (I take this to mean infringement action) in respect of the registration which is itself now under attack in these proceedings. However formal proceedings have not been instituted.

Mr Brown says he does not have full sales records but he gives an approximate indication of the value of sales by his company under the name “Minilite” and “Minilight” for the years 1990 to 1995. I note that these have increased from £100,000 to £300,000 over the period. He exhibits (CJB2) advertisements relating to these sales. He concludes by saying

“From my knowledge of alloy wheels of the kind known as “minilites” no such wheels have been supplied by Tech Del Limited, Minilite Limited or Minilite Wheels Limited during the period 1984 to 1991. Some wheels were put onto the market by Minilite Limited in 1992 until the company went into liquidation late in that year. Sales of “minilite” wheels were commenced by Mr David Lee or Minilite Wheels Limited early in 1993 and continued to a limited extent from that date until recently. Although Minilite Wheels Limited purport to be the owners of the rights in the “minilite” name other companies, including my own, continued to trade under the same or similar names, marketing similar products as they had done freely since the early 1980’s. As a result of the lack of supplies from the original source supplies became available from other sources and the supplies of these wheels were often sold under the name “minilite” or a similar name. As a result the name “minilite” has become descriptive of this kind of wheel and, in the trade, it is understood that this name describes a style of wheel and no longer indicates a connection with any particular company or companies. This situation is also generally understood by customers for these wheels who refer to

the name “minilite” as a generic description for a style of wheel. For this reason I consider that it is wrong for the registration 1415895 to remain on the register as a trade mark registration owned by a particular company. The name should be available for all to use as has been customary in the trade for at least the last 12 years.”

5

The second declaration comes from David Robert Cowan, the applicants’ trade mark agent. He firstly exhibits (DC1 to 3) print-outs of Trade Mark Registry records relating to the registration under attack along with an earlier registration (No 911675) which has a disclaimer, inter alia, of the word MINILITE. He then exhibits (DC4 and 5) copies of Companies House records for the companies Minilite Ltd and Minilite Wheels Ltd. On the basis of these records it is said that Minilite Ltd did not trade or use the name MINILITE during the period 1986 to 1990 and was in liquidation from 4 September 1992. Minilite Wheels Ltd did not trade before 30 April 1992 but commenced trading in alloy wheels for motor cars in December 1992. Mr Cowan also exhibits (DC6) a copy of a deed of assignment from Minilite Ltd to Mr David Lee, made on 20 August 1993, which suggests that the trade mark MINILITE was valued at £1. He considers this to be a very nominal amount if the rights were regarded as valuable. The mark was subsequently assigned from Mr Lee to Minilite Wheels Ltd by deed date 22 November 1993 (Exhibit DC7) again for a consideration of £1. He also supplies (DC8) a copy of an advertisement from “Autosport” on 4 February 1993 which, by reference to the address, he considers to have been placed by Mr Lee or Minilite Wheels Ltd prior to the date on which either acquired rights to the registration. Finally he exhibits (DC9) advertisements from “Cars and Car Conversions” and “Miniworld” magazines which include references to “minilite”, “minilight” or “minilife” during the period 1984 to 1995. The conclusions he draws from the material submitted is that

25

- there were no wheels available for sale from Tech Del Ltd, Minilite Ltd or Minilite Wheels Ltd during the period 1984 to 1991.
- the style of wheel concerned had become known as “minilite” and is thus a description of the goods.
- at least 20 different companies have used “minilite” or colourably similar words during the period 1984 to 1995.
- David Lee and/or Minilite Wheels Ltd traded under the name “minilite” before acquiring rights to the registration thus further causing the name to become descriptive.

30

35

#### Registered proprietors’ evidence

40

The registered proprietors filed a statutory declaration dated 1 October 1996 by David James Lee, the Managing Director of Minilite Wheels Ltd. He says he was also one of the final Directors of Minilite Ltd and prior to that was the Japanese agent/distributor for Minilite Ltd from 1989.

45

His declaration is based upon information within the company records of Minilite Ltd, Minilite Wheels Ltd and Tech-Del Ltd, from information supplied to him by former directors and

associates of Tech-Del Ltd and Minilite Ltd and from his own knowledge of this business and public records.

5 He says that the MINILITE wheel was designed by John Ford and Derek Power in 1962 and until 1983 was marketed by Tech-Del Ltd. Minilite Ltd was dormant until 1982 when the trade marks were assigned from Tech-Del Ltd to Minilite Ltd. In 1992 Minilite Ltd was placed in voluntary liquidation and he purchased the entire assets of the company in September 1992. He exhibits (DL1) a letter from the liquidator confirming purchase of all intellectual property. In September 1992 he also purchased Minilite Wheels Ltd to continue the business in Minilite wheels. Although the purchase of Minilite Limited assets took place in September 10 1992 assignment documents suitable for formal registration were executed later when he also onwardly assigned the trade marks to Minilite Wheels Ltd.

15 Mr Lee goes on to set out the trading history associated with the mark MINILITE since the 1960s. He exhibits (DL2) copies of price lists, advertisements etc in support of this. I do not think I need record his comments in detail. Suffice to say that an active market appeared to exist until 1983 when, for a variety of reasons, demand reduced. By the end of 1984 full commercial production of the Minilite car wheel ceased. However kart wheels continued to be sold up to 1989 under the terms of a distributorship agreement with MKM Wheel Services Ltd. In 1989 Jolyon Farncome-Smith purchased Minilite Ltd and the company recommenced manufacturing activity in full-size car wheels. Mr Lee also refers to two other trading 20 circumstances - first a flourishing second hand market and secondly the fact that existing stocks lasted for a considerable time after the slump in demand. In all the “second-hand” advertisements “Minilites” or “genuine Minilites” are consistently referred to so as to designate the trade origin of the wheels. He adds that “the advertisements for some of these 25 wheels did use expressions such as “Minilite” look-alike, but where the name “Minilite” was used it was as part of a description, invariably including wording such as “style” or “look-alike”, which deferred to the reputation of the name, i.e. to the associated quality and the fact that they were not actually Minilite wheels nor had any trading connection with Minilite.”

30 “Most, if not all, the advertisements referring to “Minilight” or “Minilite” wheels, without deference such as “style” or “look-alike” originate from Midland Wheels Supplies Ltd, also know as MWS, in that they are either their own advertisements or advertisements placed by resellers of MWS products.”

35 He exhibits (DL3) a selection of advertisements for periodicals in the period 1985 to 1995 showing 8-spoked alloy wheels of similar design to Minilite wheels but not referring to “Minilite” in any way. He says that some resellers have invoked a “Minilite look-alike” comparative description without instruction from manufacturers. He exhibits (DL4) a letter 40 from a manufacturer asking a reseller not to advertise his products as “MX Minilites” explaining that they do not sell them under the Minilite name. In particular it is said that this is “out of respect for Minilite Wheels Ltd”.

45 Mr Lee then refers to the return to manufacture of Minilite wheels in 1989. This was widely publicised and he exhibits (DL5 and 6) copies of articles, advertisements and letters relating thereto. He expresses the belief that MWS/Midland Wheel Supplies Ltd only commenced use of reference to “Minilite” after the relaunch. Their advertisements in 1991 referred to

“Minilite replica” but the spelling has changed from time to time and the word “replica” dropped. Mr Lee describes what he considers to be misleading promotional activity by the applicants suggesting that “Mini-lite wheels are now part of the wheel giants MWS”.

Mr Brown is also said to have registered a company, Minilite Alloy Wheels Ltd, and advertised it as incorporating Minilite Wheels (Exhibits DL7, 8 and 9). In addition to what he considers to be the abuse of the Minilite trade mark Mr Lee alleges that the opponents are known to have acted in a similar manner with other trade marks. He exhibits (DL10) a letter from Ford Motor Company Ltd in support of this claim and comments further on the circumstances surrounding the passing-off proceedings between the parties.

Referring to Exhibit DC9 to Mr Cowan’s declaration he says

“The only substantiated and repeated use of Minilite is attributed to MWS in the Car and Car Conversion advertisements. The resellers who are advertising in Miniworld are either customers of MWS, so the advertisements again originate from them, or are selling our genuine Minilite wheels. For example, the Moss Europe (Darlington) advertisement does not specify Minilite as alleged, but has entries “Genuine Minilite” and “Replica Minilite”.

He says that he and his predecessors have been vigilant in notifying the trade and resellers that Minilite is a trade mark. He exhibits (DL12) material in support of this claim and expresses the belief that these efforts have been successful despite the opponent company’s attempts to undermine their position. Finally he offers some observations on the sales figures given in Mr Brown’s declaration.

#### Applicants’ evidence in reply

The applicants filed evidence in reply in the form of a further statutory declaration dated 31 July 1997 by David Robert Cowan.

He firstly comments on the circumstances surrounding assignment of the mark at issue. In particular he says that it is unusual for rights to be assigned shortly before the original proprietor ceased trading especially when the original proprietor subsequently goes into liquidation or receivership. He also questions whether goodwill in the trade mark was assigned. The assignment of a related registration appears, he says, not to have been with the goodwill in the name MINILITE. The conclusion he draws from this is that any rights in relation to reputation in MINILITE acquired prior to 1982 by reason of use of the mark were lost at that time.

The remainder of Mr Cowan’s declaration is a detailed commentary on Mr Lee’s declaration and particularly exhibits DL2 and 5 thereof. The purpose is to cast doubt on Mr Lee’s claim that there was continuous trading under the mark since the 1960s and to support the contrary view that there was a gap in the market which resulted in several other companies offering goods for sale under the MINILITE or similar name. I do not propose to review these comments in detail but would summarise the principal points as being

- for the period 1960-1982 price lists, advertisements etc are given but no indication as to the extent of sales. However in the light of the assignment in 1982 it is suggested that the new owner would have commenced trading without the benefit of goodwill or reputation
- for the period 1983 to 1990 a price list exists for 1983 but no further such lists exist until 1990 and no information is given about any sales
- For the period 1991 to 1996 there are advertisements for the MINILITE wheel but very limited information on sales.

Mr Cowan concludes from this that there is very little evidence of MINILITE's return to the market in 1989 or the extent of any sales after that date. Thus he says "by Mr Lee's own admission there was a period of five, six or seven years from 1982/83/84 to 1989 during which Minilite Ltd were absent from the market and took no action to restrain the use of MINILITE or similar names by others. During this period purchasers of wheels associated the name with a particular style of wheel, rather than a company and hence the name became generic to this style of wheel. Due to the generic use of the MINILITE name, which became established, use by others continued to take place after the attempted re-entry into the wheels market by Minilite Ltd, from 1989 until its demise in 1992." He adds that Minilite Wheels were unable to support their action for passing-off because of insufficient evidence of use. Finally Mr Cowan says he draws further support for his views from Exhibit DL5 of Mr Lee's declaration. He refers to various quotations from advertisements and articles concerning MINILITE wheels.

That concludes my review of the evidence.

#### Decision

The grounds of the request that registration No 11415893 be revoked and be declared invalid are based upon Section 46(1)(c) and Section 47(1) which are set out below.

- 46.- (1)(c) that, in consequence of acts or inactivity of the proprietor, it has become the common name in the trade for a product or service for which it is registered;
- 47.- (1) The registration of a trade mark may be declared invalid on the ground that the trade mark was registered in breach of section 3 or any of the provisions referred to in that section (absolute grounds for refusal of registration).

Where the trade mark was registered in breach of subsection (1)(b), (c) or (d) of that section, it shall not be declared invalid if, in consequence of the use which has been made of it, it has after registration acquired a distinctive character in relation to the goods or services for which it is registered.

The applicant for the declaration of invalidity further states that the registration is invalid because the trade mark was registered in breach of Section 3(1), (b), (c) and (d) of the Act. This states:

- 5           3.-   (1)    The following shall not be registered -
- (a)    .....
- 10           (b)    trade marks which are devoid of any distinctive character,
- (c)    trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of services, or other characteristics of goods or services,
- 15           (d)    trade marks which consist exclusively of signs or indications which have become customary in the current language or in the *bona fide* and established practices of the trade:

20   This trade mark was registered under the provisions of the previous statute (the Trade Marks Act 1938 (as amended) and is therefore the subject of paragraph 2(1) of Schedule 3 of the Trade Marks Act 1994 which dealt with the transitional provisions relating to registered trade marks. This states:-

- 25           2.    (1)    Existing registered marks (whether registered in Part A or B of the register kept under the 1938 Act) shall be transferred on the commencement of this Act to the register kept under this Act and have effect, subject to the provisions of this Schedule, as if registered under this Act.

30   In my view this means that the provisions of Sections 46 and 47 apply to this trade mark registration which can therefore be declared invalid if registered in breach of Section 3, or revoked if because of the inactivity of the registered proprietor the trade mark has become the common name for the goods for which it is registered.

35   I go on therefore to deal first of all with the request for the declaration of invalidity and in doing so consider each of the subsections of Section 3 as set out above.

40   Section 3(1)(b) seeks to prohibit the acceptance for registration of trade marks which are devoid of distinctive character. In TREAT [1996] RPC 281 at Page 306, Mr Justice Jacob said:-

45           “What does *devoid of any distinctive character* mean? I think the phrase requires consideration of the mark on its own, assuming no use. Is it the sort of word (or other sign) which cannot do the job of distinguishing without first educating the public that it is a trade mark?”



In relation to the goods at issue, lightweight wheels for motor cars I think the term MINILITE is devoid of distinctive character. It consists of the word MINI, which means small, conjoined with the word LITE, the well known alternative way of spelling the word LIGHT. Thus the term as whole when used in relation to the goods of the registration is descriptive of a small  
5 lightweight wheel for a motor vehicle or a lightweight wheel for the type of motor car known as a MINI or Super MINI. On either basis the term is one which cannot do the job of distinguishing the goods of one trader without first educating the public that it is a trade mark. Thus it is not acceptable for registration prima facie because it fails the test applied under Section 3(1)(b).

10 Section 3(1)(c) and (d) prohibits the acceptance for registration of terms which consist exclusively of signs which may serve in trade to designate characteristics of the goods covered by the application or which are commonly used in the trade in relation to those goods. I therefore have to consider whether MINILITE is such a sign. In my view, prima facie, it is.  
15 The descriptive nature of the term spelled out above means that it is apt for use by other traders. As Mr Hugh Laddie, as he then was, acting for the Secretary of State said in PROFITMAKER [1994] RPC 613 and by reference to TORQ-SET [1959] RPC 344:-

20 “The honest trader should not need to consult the register to ensure that common or descriptive laudatory words, or not unusual combinations of them, have been monopolised by others.”

25 That was a case decided under the Trade Marks Act 1938 (as amended) but the comment is apt for application to cases to be determined under the Trade Marks Act 1994, particularly in relation to Section 3(1)(d).

30 In the circumstances I find that the trade mark MINILITE is not one which would be acceptable prima facie for acceptance for registration under Section 3 of the Act. That does not mean, however, that the registration is invalid because both Section 3 and Section 47(1) provides for the acceptance for registration of trade marks which have acquired a distinctive character before the date of application or in the case of a registration should not be declared  
35 invalid if it has acquired a distinctive character after the date of registration, both as a result of the use made of the trade mark. I go on therefore to consider whether either of these two situations apply in this case. In this case, by reference to the definitions in Section 104 of the Act, the date of application and date of registration is 1 March 1990.

I first of all note the view of Mr Justice Jacob in TREAT (reference as above) at page 302 lines 1-15 where he comments on Section 72:-

40 “In all legal proceedings relating to a registered trade mark (including proceedings for rectification of the register) the registration of a person as proprietor of a trade mark shall be prima facie evidence of the validity of the original registration...”

45 This clearly casts the onus on he who wishes to attack the validity of the *original* registration. But once the attacker can show the registration was wrongly made (particularly for non-compliance with Section 3(1)(b)-(d)) and the proprietor wishes to rely on the proviso to Section 47(1) it is for the proprietor to show that his mark is

distinctive. So one cannot simply look at the position at the time of the attack and say the onus lies on the attacker. Once the attacker is over the hurdle of showing the original registration was bad, the onus shifts to the proprietor if he wants to say, “never mind, I can show the mark is distinctive now”.

5

As I have held that the term MINILITE, prima facie, was not acceptable for registration as a trade mark under the provisions of Section 3, I consider whether at the date of application and registration the term nevertheless had acquired a distinctive character as a result of the use made of it. On the basis of the above comment by Mr Justice Jacob it is for the registered proprietor to demonstrate that this was so.

10

It is clear from Mr Lee’s evidence that in the period prior to the date of application for registration the amount of commercial activity surrounding sales of goods by the proprietor of the trade mark MINILITE was limited. There were sales, it is stated, of second-hand ‘MINILITES’ but there was little in the way of commercial production such as to demonstrate that the trade mark MINILITE had acquired and maintained a distinctive character given that commercial production ceased in 1984 and only re-commenced in 1989. Though there were submissions at the Hearing that the trade marks benefited from both a residual reputation from production and sales in the years prior to 1984 and as a by product of the secondhand sales I do not consider the evidence supports such a submission.

15

20

Insofar as the claim is concerned that there was continuing sales of kart wheels under the trade mark I do not consider the evidence filed in relation to that fact (a letter from Mr Peter Wardle a partner in Applied Racing Techniques lacks the detail of sales (numbers and cash volumes) required to justify the claim in terms of comprehensive evidence of user of the trade marks.

25

In those circumstances, I do not consider that the evidence provided in these proceedings by the registered proprietor supports the contention that the trade mark in suit had through use acquired a distinctive character sufficient to displace the descriptive meaning of the term MINILITE as set out earlier by the time the trade mark was registered.

30

In reaching this view I do not, however, hold that the trade mark had become the generic name for lightweight wheels for motor cars. I do not consider that the applicants’ evidence is sufficiently robust in that respect. Despite Mr Brown’s statement that two Italian companies were supplying wheels under the term “minilites” at that time there is no tangible evidence that this was so or that in any event they had any effect on the public or the trades perception of the term.

35

I go on to consider under the provision of Section 47(1) whether the trade mark has been used since its registration and whether that use has enabled it to acquire a distinctive character such as that it should not be declared invalid. Bearing Mr Justice Jacob’s comments in mind in the TREAT case it is again for the registered proprietor to demonstrate that this is so.

40

In his evidence Mr Brown refers to the fact that wheels under the MINILITE trade mark re-commenced in 1989 and this fact was widely published. There are numerous examples exhibited of magazines showing advertisements for MINILITE wheels, invoices for such and articles covering the period 1990 onwards. Price lists are also exhibited which clearly indicate

45

an intention to use the trade mark. And there is evidence that the proprietor was issuing 'cease and desist letters' in order to prevent others from using the term in a descriptive manner.

5 The applicant's evidence seeks to point out that there was, prior to the date of the application for registration, evidence that the trade mark was becoming the descriptive term for the goods and that even if there were advertisements and price lists for the period following registration there has been provided no evidence of sales (number, volume or cash value) which would enable the Tribunal to reach the view that the trade mark had been used and as such had  
10 acquired a distinctive character.

It seems to me that the advertisements on which the applicant relies to show that the proprietor had allowed the trade mark MINILITE to become generic are either his own advertisements or are by organisations within his control. There is also some evidence (not  
15 conclusive by any means) which suggests that the applicant in this case has been threatened with legal action in respect of their use of others trade marks. That being so it would be unwise in my view to give undue weight to the applicants claims. In any event, it seems to me that the advertising that has taken place supports the registered proprietor's view that the trade mark MINILITE has acquired a distinctive character. This is because the advertisements  
20 for the most part refer to MINILITE replicas or other such description. The term also appears in lists of other trade marks under which goods are sold by traders. Others in the trade according to the registered proprietors evidence also recognise the term MINILITE as a trade mark. There is however no volume or cash value provided of sales that have been achieved under the trade mark since registration which might have reinforced the registered proprietor's  
25 claim that the trade mark has become distinctive in fact. Such evidence would have been useful. Nevertheless, making the best I can of the limited relevant material before me I am prepared to accept that the term MINILITE has become distinctive in fact. In part this is due to the residual reputation in the trade mark which has hung over since the 1960s and 1970s; to the efforts the proprietor seems to have been making to ensure that the term has not become  
30 generic; and finally to the recognition by others of the term as a trade mark. I therefore hold that the trade mark MINILITE has become distinctive of the goods covered by the registration. Therefore notwithstanding the fact that the trade mark, prima facie, was not registrable, and had not acquired a distinctive character at the date of application, the application to have the registration declared invalid is refused..

35 In reaching this view I have taken into account the judgement of Mr Justice Neuberger in BACH FLOWER REMEDIES (unreported). In that case the court held that the term BACH FLOWER REMEDIES had become descriptive to some extent because of the deliberate action of the developer of the method of producing the flower remedies. That is not so in this  
40 case. Also in that case there was evidence from a whole range of individuals who recognised the term as descriptive. Again this is not so in this case. I have also had regard to PHILLIPS ELECTRONICS NV v REMINGTON CONSUMER PRODUCTS [1998] RPC 283 and Mr Justice Jacobs comments at pages 299 and 300 in which he refers to the Directive on which this Act is based placing particular importance on the purpose of a trade mark to  
45 guarantee trade origin. In this case I think the term MINILITE, unlike a three headed configuration of shaving heads, can be a badge of origin and therefore that case does not assist the applicant.

I have also taken into account the submissions made by the applicants representative on the various transfers of ownership of the trade mark in suit. In my view this had no bearing on the matter in hand.

5 In view of my finding under Section 47(1) and for the reasons set out above I have no hesitation in also dismissing the request for revocation on the grounds that the trade mark has become the common name for the goods at issue based upon Section 46(1)(c) of the Act.

10 The application for the declaration of invalidity and revocation of this registration having been unsuccessful I therefore award the registered proprietor the sum of **£650** towards his costs.

**Dated this 17th day of November 1998**

15

**M KNIGHT**  
**Principal Inter Partes Hearing Officer**  
**For the Registrar**  
20 **the Comptroller-General**