

TRADE MARKS ACT 1994


**IN THE MATTER OF APPLICATION No. 2498434
IN THE NAMES OF MR. NEVID AHMED AND MR. OZGUR SONER KANAL**

**AND IN THE MATTER OF OPPOSITION THERETO UNDER No. 98981
BY DANONE WATERS (UK & IRELAND) LIMITED**

**AND IN THE MATTER OF AN APPEAL TO THE APPOINTED PERSON
AGAINST A DECISION OF MR. OLIVER MORRIS DATED 21 MAY 2010**

DECISION

1. In June 2010, Mr. Nevid Ahmed and Mr. Ozgur Soner Kanal (“the Appellants”) gave notice of appeal under section 76 of the Trade Marks Act 1994 against the decision of the Registrar’s Hearing Officer (Mr. Oliver Morris) issued on 21 May 2010 in relation to Opposition No. 98981 filed in the name of Danone Waters (UK & Ireland) Limited (“the Opponent”) on 23 April 2009.
2. The Hearing Officer’s decision is BL O/159/10. The Opposition was brought in respect of UK Trade Mark Application No. 2498434, which stands in the names of the Appellants with a filing date of 24 September 2008. The Appellants sought to register the figurative designation shown below in Class 32 as a trade mark for use in respect of: “Mineral and aerated waters; natural spring water and other non-alcoholic drinks”:


3. The request for registration was refused on relative grounds under section 5(2)(b) of the Act in relation to all the specified goods. The Opponent was awarded the sum of £900 as a contribution towards its costs of the Registry proceedings.
4. Under cover of a letter dated 13 October 2011, the Treasury Solicitor forwarded to me a copy of letter dated 1 November 2010 received from the Appellants’ representatives and signed by the representatives of both the Appellants and the Opponent.
5. The letter informed the Treasury Solicitor that the parties had arrived at a negotiated settlement whereby the Appellants and the Opponent had agreed that the goods in the Application should be limited to: “Mineral and aerated waters” and the Opposition should be withdrawn so that the Application could proceed to registration without objection from the Opponent in respect of those goods only.

6. By letters dated 4 July and 23 August 2011, the parties through their representatives independently reconfirmed to the Treasury Solicitor the terms of their agreement. Further, by letter dated 29 June 2011, the Registrar confirmed that he had no objection to the course of action proposed by the parties.
7. In keeping with the approach adopted by the Appointed Person in *OKO Trade Mark*, BL O/195/03, *QUORN HUNT Trade Mark*, BL O/127/05 and subsequent cases and with the consent of the parties as envisaged in their negotiated settlement agreement, I direct and determine:
 - (1) the determinations made by Mr. Oliver Morris in his decision issued on 21 May 2010 stand discharged;
 - (2) the Appellant's appeal from those determinations stands withdrawn with no order as to costs;
 - (3) Opposition No. 98981 stands withdrawn with no order as to costs;
 - (4) Application No. 2498434 stands remitted to the Registrar for further processing in respect of: "Mineral and aerated waters" in accordance with the provisions of the Act and the Rules and in the terms of the negotiated settlement agreement that has been put before me.

Professor Ruth Annand, 3 November 2011