O-052-14

TRADE MARKS ACT 1994

IN THE MATTER OF TRADE MARK APPLICATION 2634727
BY EVOLUTION FRESH, INC
TO REGISTER THE FOLLOWING TRADE MARK IN CLASSES 32, 35 & 43:

SQUEEZE LIFE

AND

OPPOSITION THERETO (NO. 104513) BY SQUEEZE LIFE S.L.

The background and the pleadings

1) Evolution Fresh, Inc (the "applicant") applied for the trade mark: **SQUEEZE LIFE** on 14 September 2012, claiming a priority date of 16 March 2012 from an Australian trade mark. The application was published in the Trade Marks Journal on 16 November 2012. Registration is sought for the following goods and services:

> **Class 32:** Fruit juices; fruit and juice based beverages; fruit drinks and soft drinks containing fruit juices; frozen fruit beverages and frozen fruit-based beverages; fruit concentrates and purees used as ingredients of beverages; beverage concentrates and syrups for making frozen blended beverages; sparkling fruit and juice based beverages and soda beverages; vegetable-fruit juices; vegetable-based beverages; beverages containing vegetable juices; liquid and powdered beverage mixes; flavoring syrups for making tea and herbal tea-based beverages; water, mineral water, sparkling water, drinking water with vitamins, and other non-alcoholic drinks; soft drinks; soda pop beverages; flavoring syrups for making beverages; flavored and unflavored bottled waters; energy drinks; soy-based beverages not being milk substitutes; soy drinks and soy-based beverages; nut milk and nut juice.
>
> **Class 35:** Business administration; business management; franchising, namely, providing technical assistance in the establishment and/or operation of restaurants, cafes, coffee houses and snack bars; retail services in the field of coffee, tea, cocoa, non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods, nutritional supplements and dietary supplements, domestic, kitchen and household electric and non-electric appliances, housewares, kitchenware, watches, stop watches, books, musical recordings, blank books, books, tote bags, purses, briefcases, book bags, valises and umbrellas, all made of cloth, plastic, or leather, key fobs of leather, clothing, headwear, caps and hats, games and puzzles; wholesale store services and wholesale ordering services all in the field of coffee, tea, cocoa, non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods, nutritional supplements and dietary supplements, domestic, kitchen and household electric and non-electric appliances, housewares, kitchenware, watches, stop watches, books, musical recordings, blank books, books, tote bags, purses, briefcases, book bags, valises and umbrellas, all made of cloth, plastic, or leather, key fobs of leather, clothing, headwear, caps and hats, games and puzzles; mail order retail services and mail order retail catalog services, computerized online ordering services, computerized online retail services, online ordering services and online retail store services all in the field of coffee, tea, cocoa, non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods, nutritional supplements and dietary

supplements, domestic, kitchen and household electric and non-electric appliances, housewares, kitchenware, watches, stop watches, books, musical recordings, blank books, books, tote bags, purses, briefcases, book bags, valises and umbrellas, all made of cloth, plastic, or leather, key fobs of leather, clothing, headwear, caps and hats, games and puzzles; computerized online gift registry and ordering services.

Class 43: Restaurant, cafe, cafeteria, snack bar, carry out restaurants, take out restaurants; catering services; contract catering services; food preparation; carry out restaurant services.

2) Squeeze Life S.L. (the "opponent") opposes the registration of the above mark on a ground under section 5(2)(b) of the Trade Marks Act 1994 ("the Act"), relying on a single earlier trade mark as follows:

Community trade mark ("CTM") registration 8387201 for the mark:

which was filed on 25 June 2009 and which completed its registration process on 28 January 2010. All of the goods for which the mark is registered are relied upon, namely:

Class 29: Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs, milk and milk products; edible oils and fats.

Class 31: Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals; malt.

Class 32: Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.

3) Given the date on which the earlier mark completed its registration process, it is not subject to the proof of use provisions set out in section 6A[1] of the Act; consequently, the earlier mark may be relied upon for all of its registered goods.

4) The opponent claims that:

[1] The provisions provide, in summary, that an earlier mark which has been registered for five years or more (measured at the date on which the new trade mark was published in the Trade Marks Journal) may only be relied upon to the extent to which it has been genuinely used.

i) The applicant's goods/services are the same/similar as those of the earlier mark;

ii) Both marks share the identical and distinctive words SQUEEZE LIFE, those words having, in the opponent's mark, "an independent distinctive character" separate from the element ZUMIT.

iii) Due to the identical shared element, the goods and services sold or provided under the respective marks will be taken as emanating from the same or an economically linked undertaking.

5) The applicant filed a counterstatement denying the claims. It denies that the marks are similar. It denies "in some instances" that the goods/services are similar/identical. Only the opponent filed evidence. The matter then came to be heard before me on 8 January 2014 at which the opponent was represented by Mr Dan McCourt Fritz, of counsel, instructed by Abel & Imray; the applicant was represented by Mr Alastair Shaw, also of counsel, instructed by Hogan Lovells.

The opponent's evidence

6) This comes, by way of witness statement, from Mr Guillermo Ortega, the opponent's managing director. Certain exhibits to his witness statement have been granted confidentiality. I do not intend to summarise Mr Ortega's evidence in any detail. This is because it is plain from the evidence that the opponent's mark is used primarily in Spain. Whilst I note Mr Ortega's explanation that the opponent plans to expand its business to other territories (including the UK) and that it has taken steps to achieve this, the evidence relating to the UK market is extremely thin. There is nothing in the evidence that gets close to persuading me that the use of the mark will have had any material impact upon the average consumer in the UK. Mr McCourt Fritz accepted that there was little value in the opponent's evidence, other than providing background context. I need say no more about the evidence.

Section 5(2)(b) - the legislation and the leading case-law

7) Section 5(2)(b) of the Act reads:

> "5.-(2) A trade mark shall not be registered if because –
>
> (a) ……..
>
> (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."

8) The Court of Justice of the European Union ("CJEU") has issued a number of judgments[2] which provide guiding principles relevant to this ground. In *La Chemise Lacoste SA v Baker Street Clothing Ltd* (O/330/10), Mr Geoffrey Hobbs QC, sitting as the Appointed Person, quoted with approval the following summary of the principles which are established by these cases:

> "(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, in certain circumstances, be dominated by one or more of its components;
>
> (f) and beyond the usual case, where the overall impression created by a mark depends heavily on the dominant features of the mark, it is quite 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;

[2] The leading judgments are: *Sabel BV v. Puma AG* [1998] R.P.C. 199, *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer* [1999] R.P.C. 117, *Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V* [2000] F.S.R. 77, *Marca Mode CV v. Adidas AG + Adidas Benelux BV* [2000] E.T.M.R. 723, Case C-3/03 *Matrazen Concord GmbH v GmbGv Office for Harmonisation in the Internal Market* [2004] ECR I-3657 *Medion AG V Thomson multimedia Sales Germany & Austria GmbH* (Case C-120/04) and *Shaker di L. Laudato & Co. Sas* (C-334/05).

(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 causes the public to wrongly believe that the respective goods [or services] come from the same or economically-linked undertakings, there is a likelihood of confusion."

The average consumer

9) The average consumer is deemed to be reasonably observant and circumspect. However, the degree of care and attention the average consumer uses when selecting goods and services can, of course, vary depending on what is involved. For all of the goods in class 32 (and the goods in classes 29 & 31 of the earlier mark) the average consumer will be a member of the general public. The goods are not expensive and will be purchased reasonably frequently – this suggests a fairly casual selection process which will be more by the eye (self selection) than by the ear.

10) The average consumer will also be a member of the general public in relation to the following services:

Class 35: retail services in the field of coffee, tea, cocoa, non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods, nutritional supplements and dietary supplements, domestic, kitchen and household electric and non-electric appliances, housewares, kitchenware, watches, stop watches, books, musical recordings, blank books, books, tote bags, purses, briefcases, book bags, valises and umbrellas, all made of cloth, plastic, or leather, key fobs of leather, clothing, headwear, caps and hats, games and puzzles; mail order retail services and mail order retail catalog services, computerized online ordering services, computerized online retail services, online ordering services and online retail store services all in the field of coffee, tea, cocoa, non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods, nutritional supplements and dietary supplements, domestic, kitchen and household electric and non-electric appliances, housewares, kitchenware, watches, stop watches, books, musical recordings, blank books, books, tote bags, purses, briefcases, book bags, valises and umbrellas, all made of cloth, plastic, or leather, key

fobs of leather, clothing, headwear, caps and hats, games and puzzles; computerized online gift registry and ordering services.

Class 43: Restaurant, cafe, cafeteria, snack bar, carry out restaurants, take out restaurants

11) The above services will be encountered on the high-street or online, suggesting a process of visual selection, although, the aural impact will not be ignored completely. The services will, generally speaking, be selected with an average level of care, not materially higher or lower than the norm.

12) Certain services are more business to business, so the average consumer will be a business person:

Class 35: Business administration; business management; franchising, namely, providing technical assistance in the establishment and/or operation of restaurants, cafes, coffee houses and snack bars; wholesale store services and wholesale ordering services all in the field of coffee, tea, cocoa, non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods, nutritional supplements and dietary supplements, domestic, kitchen and household electric and non-electric appliances, housewares, kitchenware, watches, stop watches, books, musical recordings, blank books, books, tote bags, purses, briefcases, book bags, valises and umbrellas, all made of cloth, plastic, or leather, key fobs of leather, clothing, headwear, caps and hats, games and puzzles;

13) The business administration, management and franchising services are likely to be relatively considered selections. The wholesaling services (which by their nature will more likely be used by businesses than by members of the public) are less so, but they will not be casual selections either – a reasonable degree of consideration will be deployed here. The visual impact of marks will take on more prominence as service providers are likely to be selected following perusal of websites and brochures etc, although aural aspects may also have a role to play.

14) That leaves:

Class 43: Catering services; contract catering services; food preparation.

15) Here the average consumer could be either a member of the general public or a business. The services are likely to be reasonably considered, although contract catering will have a higher degree of care and consideration deployed as the term suggests an on-going contractual catering relationship. The visual impact of the marks will take on more prominence as service providers are likely to be selected following perusal of websites and brochures etc, although aural aspects may also have a role to play.

Comparison of the goods/services

16) When making the comparison, all relevant factors relating to the goods/services in the specifications should be taken into account. In *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer* the CJEU stated at paragraph 23 of its judgment:

> "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 ali*a, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary."

17) Guidance on this issue has also come from Jacob J In *British Sugar Plc v James Robertson & Sons Limited* [1996] RPC 281 where the following factors were highlighted as being relevant when making the comparison:

> "(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."

18) In terms of being complementary (one of the factors referred to in *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer*), this relates to close connections or relationships that are important or indispensible for the use of the other. In *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)* Case T- 325/06 it was stated:

> "It is true that goods are complementary if 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 (see, to that effect, Case T-169/03 *Sergio Rossi* v *OHIM – Sissi Rossi* (*SISSI ROSSI*) [2005] ECR II-685, paragraph 60, upheld on appeal in Case C-214/05 P *Rossi* v *OHIM* [2006] ECR I-7057; Case T-364/05 *Saint-Gobain Pam* v *OHIM – Propamsa* (*PAM PLUVIAL*) [2007] ECR II-757, paragraph 94; and Case T-443/05 *El Corte Inglés* v *OHIM – Bolaños Sabri* (*PiraÑAM diseño original Juan Bolaños*) [2007] ECR I-0000, paragraph 48)."

19) In relation to complementarity, I also bear in mind the recent guidance given by Mr Daniel Alexander QC, sitting as the Appointed Person, in case B/L O/255/13 *LOVE* were he warned against applying to rigid a test:

> "20. In my judgment, the reference to "legal definition" suggests almost that the guidance in *Boston* is providing an alternative quasi-statutory approach to evaluating similarity, which I do not consider to be warranted. It is undoubtedly right to stress the importance of the fact that customers may think that responsibility for the goods lies with the same undertaking. However, it is neither necessary nor sufficient for a finding of similarity that the goods in question must be used together or that they are sold together. I therefore think that in this respect, the Hearing Officer was taking too rigid an approach to *Boston*."

20) In relation to understanding what terms used in specifications mean/cover, the case-law informs me that "in construing a word used in a trade mark specification, one is concerned with how the product is, as a practical matter, regarded for the purposes of the trade"[3] and that I must also bear in mind that words should be given their natural meaning within the context in which they are used; they cannot be given an unnaturally narrow meaning[4]. I also note the judgment of Mr Justice Floyd in *YouView TV Limited v Total Limited* where he stated:

> "..... 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) (IPTRANSLATOR)* [2012] ETMR 42 at [47]-[49]. Nevertheless the principle should not be taken too far. *Treat* was decided the way it was because the ordinary and natural, or core, meaning of "dessert sauce" did not include jam, or because the ordinary and natural description of jam was not "a dessert sauce". 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

[3] See *British Sugar Plc v James Robertson & Sons Limited* [1996] RPC 281
[4] See *Beautimatic International Ltd v Mitchell International Pharmaceuticals Ltd and Another* [2000] FSR 267

unnaturally so as to produce a narrow meaning which does not cover the goods in question."

21) During the course of the hearing both sides' submissions appeared to fluctuate somewhat in terms of whether certain goods/services were similar or not. I therefore instructed the parties to jointly produce a table setting out the respective goods and services, what was accepted as identical or similar (and to what degree), what was not, and what was still in dispute. The parties provided such a table for which I am grateful. I will work on the basis of this table when I make my assessment. I start with the opposed goods in class 32, namely:

> Fruit juices; fruit and juice based beverages; fruit drinks and soft drinks containing fruit juices; frozen fruit beverages and frozen fruit-based beverages; fruit concentrates and purees used as ingredients of beverages; beverage concentrates and syrups for making frozen blended beverages; sparkling fruit and juice based beverages and soda beverages; vegetable-fruit juices; vegetable-based beverages; beverages containing vegetable juices; liquid and powdered beverage mixes; flavoring syrups for making tea and herbal tea-based beverages; water, mineral water, sparkling water, drinking water with vitamins, and other non-alcoholic drinks; soft drinks; soda pop beverages; flavoring syrups for making beverages; flavored and unflavored bottled waters; energy drinks; soy-based beverages not being milk substitutes; soy drinks and soy-based beverages; nut milk and nut juice.

22) The earlier mark covers goods in class 32 which, in addition to the various fruit drinks and waters, also includes "other non-alcoholic drinks" and "syrups and other preparations for making beverages". **The applicant has sensibly accepted that the goods applied for are identical to goods covered by the earlier mark. I need say no more.**

23) In class 35 there are various sets of services to consider. I turn firstly to:

> **Retail services in the field of coffee, tea, cocoa, non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods, nutritional supplements and dietary supplements**, domestic, kitchen and household electric and non-electric appliances, housewares, kitchenware, watches, stop watches, books, musical recordings, blank books, books, tote bags, purses, briefcases, book bags, valises and umbrellas, all made of cloth, plastic, or leather, key fobs of leather, clothing, headwear, caps and hats, games and puzzles; **wholesale store services and wholesale ordering services all in the field of coffee, tea, cocoa, non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods, nutritional supplements and dietary supplements**, domestic, kitchen and household electric and non-electric appliances, housewares,

kitchenware, watches, stop watches, books, musical recordings, blank books, books, tote bags, purses, briefcases, book bags, valises and umbrellas, all made of cloth, plastic, or leather, key fobs of leather, clothing, headwear, caps and hats, games and puzzles; **mail order retail services and mail order retail catalog services, computerized online ordering services, computerized online retail services, online ordering services and online retail store services all in the field of coffee, tea, cocoa, non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods, nutritional supplements and dietary supplements**[5], domestic, kitchen and household electric and non-electric appliances, housewares, kitchenware, watches, stop watches, books, musical recordings, blank books, books, tote bags, purses, briefcases, book bags, valises and umbrellas, all made of cloth, plastic, or leather, key fobs of leather, clothing, headwear, caps and hats, games and puzzles; **computerized online gift registry and ordering services**.

24) From the table provided by the parties, I note their respective positions:

"Opponent's position:

The services shown in bold are similar to the goods in the CTM. The services which are not shown in bold are dissimilar to the goods in the CTM.

Applicant's position:

The services shown in bold are similar to the goods in the CTM, but only to a very low degree, with the exception of the services underlined, which are dissimilar.

The services which are not shown in bold are dissimilar to the goods in the CTM."

25) Consequently, the only services which are still opposed are:

Retail services in the field of coffee, tea, cocoa, non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods, nutritional supplements and dietary supplements, wholesale store services and wholesale ordering services all in the field of coffee, tea, cocoa, non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods, nutritional supplements and dietary supplements; mail order retail services and mail order retail catalog services,

[5] This term was not actually underlined in the table, but this is clearly a mistake given the other terms the applicant has underlined to indicate its view that the services are not similar; this is also consistent with the applicant's submissions at the hearing.

computerized online ordering services, computerized online retail services, online ordering services and online retail store services all in the field of coffee, tea, cocoa, non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods, nutritional supplements and dietary supplements, computerized online gift registry and ordering services.

26) The applicant accepts that the following services (those not underlined above) are similar, albeit to a very low degree:

> Retail services in the field of coffee, tea, cocoa, non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods; wholesale store services and wholesale ordering services all in the field of coffee, tea, cocoa, non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods; mail order retail services and mail order retail catalog services, computerized online ordering services, computerized online retail services, online ordering services and online retail store services all in the field of coffee, tea, cocoa, non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods.

27) But argues that the following services (those underlined above) are not similar:

> Retail services in the field of nutritional supplements and dietary supplements; wholesale store services and wholesale ordering services all in the field of nutritional supplements and dietary supplements; mail order retail services and mail order retail catalog services, computerized online ordering services, computerized online retail services, online ordering services and online retail store services all in the field of nutritional supplements and dietary supplements; computerized online gift registry and ordering services.

28) In relation to the services accepted as being similar, I must decide upon the level of such similarity. The retail of specific goods can, potentially, create a close link with the goods themselves on account of the complementary relationship between them, as per the judgment of the General Court in *Oakley Inc v OHIM*, Case T-116/06:

> "54 Clearly, in the present case, the relationship between the retail services and the goods covered by the earlier trade mark is close in the sense that the goods are indispensable to or at the very least, important for the provision of those services, which are specifically provided when those goods are sold. As the Court held in paragraph 34 of *Praktiker Bau- und Heimwerkermärkte*, paragraph 17 above, the objective of retail trade is the sale of goods to consumers, the Court having also pointed 1out that

> that trade includes, in addition to the legal sales transaction, all activity carried out by the trader for the purpose of encouraging the conclusion of such a transaction. Such services, which are provided with the aim of selling certain specific goods, would make no sense without the goods."

29) The goods which are being retailed (and wholesaled) are identified as: coffee, tea, cocoa, non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods. The goods covered by the earlier mark are:

> **Class 29:** Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs, milk and milk products; edible oils and fats.
>
> **Class 31:** Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals; malt.
>
> **Class 32:** Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.

30) Clearly, the retailed "non-alcoholic beverages including fruit juice, vegetable juice, water" correspond to goods covered by the earlier mark. Also the retailed "packaged and prepared foods" correspond to goods covered by the class 29 specification of the earlier mark (which could be packaged and prepared). **I consider that the relationship between the goods and the retailer/wholesaler of such goods is one where the similarity is more than a very low degree. I consider there to be a reasonable, but not high, degree of similarity.** In relation to the retailing of coffee, tea and cocoa, the raw product used for making such goods falls in class 30 so there is no goods counterpart in the earlier mark. Even beverages based on such goods fall in class 30 so, again, there is no direct counterpart. The link must, therefore, be somewhat weaker. However, a retailer of coffee, tea and cocoa in beverage form (which will be covered by the applied for specification) may still be linked with other types of non-alcoholic beverages. **In view of this I consider there to be a low level of similarity.**

31) In relation to:

> Retail services in the field of nutritional supplements and dietary supplements; wholesale store services and wholesale ordering services all in the field of nutritional supplements and dietary supplements; mail order retail services and mail order retail catalog services, computerized online ordering services, computerized online retail services, online ordering services and online retail store services all in the field of all in the field of

nutritional supplements and dietary supplements; computerized online gift registry and ordering services.

it seems to me that the retail (and wholesale) of nutritional supplements and dietary supplements is quite a step away from the goods covered by the earlier mark which would not, in my view, be regarded as supplements of any form. Furthermore, gift registry and gift ordering services strike me as something likely to be used for weddings etc and is also a step away. **I agree with the applicant that these services are not similar.**

32) The next group of services in class 35 are:

> Business administration; business management; franchising, namely, providing technical assistance in the establishment and/or operation of restaurants, cafes, coffee houses and snack bars.

33) The position of the parties is:

> **"Opponent's position:** These services are similar to the goods in the CTM, but less similar to the relevant goods than [the retail type services already discussed] shown in bold above and [the restaurant services I will come on to discuss].
>
> **Applicant's position:**
>
> All of these services are dissimilar to the goods in the CTM."

34) The purpose of the services is to provide business management and administration and to provide assistance (to franchises) in establishing and operating cafes etc. Regardless of the field in which the potential users of the services operate, it is abundantly clear that the purpose of the service is quite different from the goods of the earlier mark. The nature is inherently different as are the methods of use. The users are different (general public versus businesses) even if there may be an overlap (as businessmen are also members of the public), as are the channels of trade. There is no element of competition. The only basis for the argument was made upon complementarity and the services being an "obvious next step". However, there is nothing to suggest that the goods are essential or important for the use of the service or vice versa. The closest one gets is that the nature of the business being supported is in the field of juice bars and that that business will need juice to sell, a product which is covered by the earlier mark. However, this represents too many steps to reach any meaningful degree of similarity. There is no evidence to suggest a type of relationship which may be perceived as complementary as per the case-law. All one has is a claim. Mr McCourt Fritz considered that the *Oakley* case had a wider scope than simply the link between retailing and the retailed goods. I do not see any wider scope. The Court was particularly focused upon the retail aspect. If

there is any wider scope alluded to then this is merely a reflection of the basic principles of complementarity that I have already considered. **I agree with the applicant that these services are not similar to the goods of the earlier mark.**

35) I turn finally to the following services in class 43:

> Restaurant, cafe, cafeteria, snack bar, **carry out restaurants**, **take out restaurants**; catering services; contract catering services; food reparation; **carry out restaurant services**.

36) The position of the parties is

> **"Opponent's position:** These services are similar to the goods in the CTM. They are (in general) slightly less similar to the relevant goods than the [retailing etc services] shown in bold above although - importantly - they would typically be supplied in the same sorts of establishments (e.g. High Street sandwich shops and cafeterias), but more similar than the [business management etc] services.
>
> **Applicant's position:**
>
> These services are all dissimilar to the goods in the CTM, with the exception of the goods in bold, which are similar, but only to a very low degree."

37) The applicant accepts that the services are similar (to a very low degree) to goods covered by the earlier mark but only in so far as the applied for services cover take-out/carry-out restaurants etc. I must form my own view on the degree of similarity. I agree with the opponent's position that there is a largely analogous relationship with the *Oakley* case and the relationship between retailing and the retailed goods. There is often a fine line between establishments such as sandwich shops and cafes/restaurants that have a take-out facility. **I consider the services in bold to be reasonably similar to the goods in classes 29 and 30.**

38) In relation to the terms: "restaurant, cafe, cafeteria, snack bar, catering services" then they include within their ambit take-out versions of those terms, with the consequence that the services as they stand are reasonably similar. Even if the services were amended by excluding take-away services, **I still consider that there would be at least a reasonable degree of similarity** as the services could still be relatively informal, could still represent a competitive choice between eating or drinking in such an establishment or purchasing the goods to consume at home, which consequently creates a similar purpose being provided to the same potential consumers; in this respect, I do not agree with Mr Shaw that the comments made in Case T-33/03 (*SHARK/HAI*) or the comments

made in *Booster Juice* (0-306-11) mean, as a matter of law, that these services cannot be regarded as similar.

39) The only services I have not discussed are: **contract catering services; food preparation**. Such terms do not strike me as traditional forms of providing food to the public. Contract catering strikes me as the service of catering on a large scale, for offices, weddings or even individual parties. The link with the goods and the existence of any complementary relationship is much weaker. The same applies to food preparation services which strike me as some form of individual service provided to particular customers as opposed to something that would be offered to the public through outlets. **I agree with the applicant that these services are not similar.**

Summary of findings in relation to goods/services similarity

40) Of the applied for (and still opposed) goods and services, **the following are identical:**

> Fruit juices; fruit and juice based beverages; fruit drinks and soft drinks containing fruit juices; frozen fruit beverages and frozen fruit-based beverages; fruit concentrates and purees used as ingredients of beverages; beverage concentrates and syrups for making frozen blended beverages; sparkling fruit and juice based beverages and soda beverages; vegetable-fruit juices; vegetable-based beverages; beverages containing vegetable juices; liquid and powdered beverage mixes; flavoring syrups for making tea and herbal tea-based beverages; water, mineral water, sparkling water, drinking water with vitamins, and other non-alcoholic drinks; soft drinks; soda pop beverages; flavoring syrups for making beverages; flavored and unflavored bottled waters; energy drinks; soy-based beverages not being milk substitutes; soy drinks and soy-based beverages; nut milk and nut juice.

41) The following are **reasonably similar:**

> **Class 35:** Retail services in the field of non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods; wholesale store services and wholesale ordering services all in the field of non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods; mail order retail services and mail order retail catalog services, computerized online ordering services, computerized online retail services, online ordering services and online retail store services all in the field of non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods
>
> **Class 43:** Restaurant, cafe, cafeteria, snack bar, carry out restaurants, take out restaurants; catering services.

42) The following are similar but to only a **low degree**:

> **Class 35:** Retail services in the field of coffee, tea, cocoa; wholesale store services and wholesale ordering services all in the field of coffee, tea, cocoa; mail order retail services and mail order retail catalog services, computerized online ordering services, computerized online retail services, online ordering services and online retail store services all in the field of coffee, tea, cocoa,

43) The following **are not similar**:

> **Class 35:** Business administration; business management; franchising, namely, providing technical assistance in the establishment and/or operation of restaurants, cafes, coffee houses and snack bars; retail services in the field of nutritional supplements and dietary supplements; wholesale store services and wholesale ordering services all in the field of nutritional supplements and dietary supplements; mail order retail services and mail order retail catalog services, computerized online ordering services, computerized online retail services, online ordering services and online retail store services all in the field of all in the field of nutritional supplements and dietary supplements; computerized online gift registry and ordering services.
>
> **Class 43:** Contract catering services; food preparation.

Dominant and distinctive elements

44) There was much discussion between Counsel as to the dominant and distinctive elements of the marks (particularly the earlier mark). Whilst I bear in mind that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details, the make-up of the marks is important in the case before me given Mr McCourt Fritz's reliance on the *Medion* case, the principle from which I have noted already as:

> "(f) and beyond the usual case, where the overall impression created by a mark depends heavily on the dominant features of the mark, it is quite 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"

45) In relation to the SQUEEZE LIFE trade mark, although made up of two words, it will be perceived as a single phrase which hangs together. Neither word in the mark materially dominates the other.

46) The earlier mark, however, consists of more than one component part:

47) Mr McCourt Fritz's primary argument was that "squeeze life" was the dominant part of the mark given that it is the only part that would have any meaning for the average consumer (the other aspect, ZUMit, being perceived as invented). But, even if this was not the case, "squeeze life" plays an independent and (averagely) distinctive role in the mark. Mr Shaw argued that not only was ZUMit the dominant and distinctive element, he argued that the "squeeze life" element played no real part in the matter given its position and significance in the mark and given its weak degree of distinctive character. It was argued that the ZUMit element was the badge of origin and that the "squeeze life" element was some form of strap-line that the average consumer may not even remember.

48) Whilst I agree with Mr Shaw that the ZUMit element is the most dominant part of the mark (and it is also distinctive) given that it is presented more prominently and that it catches the eye more, the "squeeze life" element clearly plays an independent and distinctive role. Whilst it is presented below the main element, it is not negligible. It will be seen as part of the make-up of the mark perhaps as either a sub-brand or as some form of slogan. That it may be perceived as a slogan does not mean that it cannot play a distinctive role[6]. The words SQUEEZE LIFE, whilst having some mildly allusive qualities, is an unusual combination of words and has more than enough capacity to be regarded as distinctive (at least averagely distinctive) in a trade mark sense. The squeeze life element plays, in my view, an independent distinctive role in the composite mark, albeit without constituting its dominant element

Comparison of the marks

49) Counsels' submissions were, to a large extent, predicated upon their views on the impact that the "squeeze life" element (in the earlier mark) would have on the average consumer. Mr Shaw argued that the marks were not similar in totality, whereas Mr McCourt Fritz argued that the marks were highly similar. Bearing their submissions in mind, and bearing in mind the findings that I have already made, it seems to me that there is a fairly obvious point of visual and aural similarity between the marks given the common presence of the words SQUEEZE LIFE. The difference in casing does not affect the position, nor does the issue of colour (the earlier mark could notionally be used in a similar colour scheme as the applied for mark). However, given the prominence of ZUMit in the earlier mark, and its absence from the applied for mark, such similarity should be assessed at only a moderate level. Although there was a suggestion that ZUMit had some form of meaning in Spanish, it has no recognizable concept for the UK average consumer. This means that any conceptualization will be based upon

[6] See, for example, Case C-398/08P *Audi AG v OHIM*

the SQUEEZE LIFE element. The concept is a somewhat vague one (of squeezing life in some way) and in relation to fruit juices some form of play on words may be noticed (squeeze relating to the squeezing of juice and life relating to the healthy properties of the goods) – this concept will also be present in the applied for mark with the consequence that there is some conceptual similarity.

Distinctiveness of the earlier mark

50) The degree of distinctiveness of the earlier mark must be assessed. This is because the more distinctive the earlier mark (based either on inherent qualities or because of use made), the greater the likelihood of confusion (see *Sabel BV v. Puma AG*, paragraph 24). As stated earlier, the evidence filed does not assist so meaning that I need only consider the inherent characteristics of the earlier mark. Mr McCourt Fritz argued that the mark as a whole had a reasonable level of distinctiveness (he did not claim that it was highly distinctive) and that, more importantly in this case, the SQUEEZE LIFE element was of an average or normal level of distinctiveness. I agree with both these submissions. In the case of the SQUEEZE LIFE element, I have already said why I consider it to be of at least an average level of distinctiveness.

Likelihood of confusion

51) The factors assessed so far have a degree of interdependency. A global assessment of them must be made when determining whether there exists a likelihood of confusion. There is no scientific formula to apply. It is a matter of considering the relevant factors from the viewpoint of the average consumer and determining whether they are likely to be confused.

52) Both parties focused very much upon the *Medion* case, the relevant parts of which read:

> "29. In the context of consideration of the likelihood of confusion, assessment of the similarity between two marks means more than taking just one component of a composite trade mark and comparing it with another mark. On the contrary, the comparison must be made by examining each of the marks in question as a whole, which does not mean that the overall impression conveyed to the relevant public by a composite trade mark may not, in certain circumstances, be dominated by one or more of its components (see *Matratzen Concord*, paragraph 32).
>
> 30. However, beyond the usual case where the average consumer perceives a mark as a whole, and notwithstanding that the overall impression may be dominated by one or more components of a composite mark, it is quite possible that in a particular case an earlier mark used by a third party in a composite sign including the name of the company of the

third party still has an independent distinctive role in the composite sign, without necessarily constituting the dominant element.

31. In such a case the overall impression produced by the composite sign may lead the public to believe that the goods or services at issue derive, at the very least, from companies which are linked economically, in which case the likelihood of confusion must be held to be established.

32. The finding that there is a likelihood of confusion should not be subject to the condition that the overall impression produced by the composite sign be dominated by the part of it which is represented by the earlier mark.

33. If such a condition were imposed, the owner of the earlier mark would be deprived of the exclusive right conferred by Article 5(1) of the directive even where the mark retained an independent distinctive role in the composite sign but that role was not dominant.

34. This would be the case where, for example, the owner of a widely-known mark makes use of a composite sign juxtaposing this mark and an earlier mark which is not itself widely known. It would also be the case if the composite sign was made up of the earlier mark and a widely-known commercial name. In fact, the overall impression would be, most often, dominated by the widely-known mark or commercial name included in the composite sign.

35. Thus, contrary to the intention of the Community legislator expressed in the 10th recital in the preamble to the directive, the guarantee of the earlier mark as an indication of origin would not be assured, even though it still had an independent distinctive role in the composite sign.

36. It must therefore be accepted that, in order to establish the likelihood of confusion, it suffices that, because the earlier mark still has an independent distinctive role, the origin of the goods or services covered by the composite sign is attributed by the public also to the owner of that mark.

37. Accordingly, the reply to the question posed must be that Article 5(1)(b) of the directive is to be interpreted as meaning that where the goods or services are identical there may be a likelihood of confusion on the part of the public where the contested sign is composed by juxtaposing the company name of another party and a registered mark which has normal distinctiveness and which, without alone determining the overall impression conveyed by the composite sign, still has an independent distinctive role therein."

53) However, it is also worth fully considering the judgment in *Aveda Corporation v Dabur India Ltd [2013] EWHC 589 (Ch)* where Arnold J undertook a thorough assessment of *Medion* and related cases. I have not included all of his guidance below (but it has all been borne in mind), but he summed up as follows:

> "45. I entirely accept the basic proposition which the Court of Justice has repeated many times, namely that the assessment of likelihood of confusion must be made by considering and comparing each of the signs as a whole. As the Court of Justice recognised in *Medion v Thomson*, however, there are situations in which the average consumer, while perceiving a composite sign as a whole, will recognise that it consists of two signs one or both of which has a significance which is independent of the significance of the composite whole. Thus when the well-known pharmaceutical company Glaxo plc acquired the well-known pharmaceutical company Wellcome plc, the average consumer of pharmaceutical goods confronted with the composite sign GLAXO WELLCOME or GLAXOWELLCOME would perceive the significance of both the whole and its constituent parts and conclude that this was an undertaking which combined the two previously separate undertakings (see *Glaxo Group Ltd v Glaxowellcome Ltd* [1996] FSR 388). The essence of the Court of Justice's reasoning in *Medion v Thomson* is that an average consumer of leisure electronic products confronted with the composite sign THOMSON LIFE could perceive both the whole and its constituent parts to have significance and thus could be misled into believing that there was a similar kind of connection between the respective undertakings.
>
> 46. As Mr Hobbs' decision in *Novartis Seeds* shows, this can only occur in circumstances where the consumer perceives the relevant part of the composite sign to have significance independently of the whole. In that case Mr Hobbs did not think that the average consumer would perceive CANTO to have significance independently of ERIC CANTONA CANTO. On the contrary, he considered that the average consumer would perceive ERIC CANTONA CANTO as a unit in which only ERIC CANTONA had independent significance.
>
> 47. In my view the principle which I have attempted to articulate in paragraph 45 above is capable of applying where the consumer perceives one of the constituent parts to have significance independently of the whole, but is mistaken as to that significance. Thus in *BULOVA ACCUTRON* the earlier trade mark was ACCURIST and the composite sign was BULOVA ACCUTRON. Stamp J held that consumers familiar with the trade mark would be likely to be confused by the composite sign because they would perceive ACCUTRON to have significance independently of the whole and would confuse it with ACCURIST.
>
> 48. On that basis, I consider that the hearing officer failed correctly to apply *Medion v Thomson*. He failed to ask himself whether the average

> consumer would perceive UVEDA to have significance independently of DABUR UVEDA as a whole and whether that would lead to a likelihood of confusion. Accordingly, it is necessary for me to consider the matter afresh. Having regard to the matters set out in paragraph 39 above, I think there can be little doubt that the average consumer who was familiar with AVEDA beauty products would be likely to be confused by the use of DABUR AVEDA in relation to identical goods. In particular, there would be a strong likelihood that the average consumer would think that it indicated some connection between DABUR and AVEDA. In my judgment it makes little difference that the second word in the composite mark is UVEDA rather than AVEDA. As the hearing officer rightly accepted, UVEDA is both visually and aurally very close to AVEDA. The human eye has a well-known tendency to see what it expects to see and the human ear to hear what it expects to hear. Thus it is likely that some consumers would misread or mishear UVEDA as AVEDA. (Indeed, not only did the hearing officer himself write AVEDA instead of UVEDA at [43], but also the Intellectual Property Office's database of past decisions currently records the contested mark as being "Dabur AVEDA".)"

54) I will consider the position firstly in relation to the goods in class 32 which are accepted by the applicant as being identical to the class 32 goods of the earlier mark. I have found the marks to be aurally and visually similar to only a moderate degree; there is some conceptual similarity based on the shared element. I have found that although the dominant element of the earlier mark is ZUMit, the "SQUEEZE LIFE" element plays an independent distinctive role. I consider the average consumer will notice and be able to recall the SQUEEZE LIFE element of the earlier mark. I consider that when the average consumer encounters SQUEEZE LIFE alone they will notice the common element and they will put this down to the respective undertakings being the same or being related. To deal with some of Mr Shaw's other points, it does not matter, in my view, that the earlier/later mark is a mirror of the earlier/later mark in the *Medion* case (in that case the composite mark was the later mark not the earlier mark); confusion can flow in either direction under section 5(2)(b) – it is simply a matter of confusion. Nor does it matter that *Medion* related to the appending of a company name to the element of similarity (which is not the case here); what one is looking for are guiding principles, principles and rationale that Arnold J aptly elucidates above. Nor does it not matter that the common element has not be used in the earlier mark. **I am of the clear view that there is a likelihood of confusion at least in relation to the identical goods in class 32.** I should add that when reaching this view I have paid little attention to the decision of the OHIM opposition division involving the same marks. That decision, as Mr Shaw rightly pointed out, was measured from the perspective of the Spanish public and, thus, even though I have made a similar finding, I have based this solely upon my own view as to whether the UK average consumer is likely to be confused.

55) I next consider the services I held to be reasonably similar to the goods of the earlier mark:

> **Class 35:** Retail services in the field of non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods; wholesale store services and wholesale ordering services all in the field of non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods; mail order retail services and mail order retail catalog services, computerized online ordering services, computerized online retail services, online ordering services and online retail store services all in the field of non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods
>
> **Class 43:** Restaurant, cafe, cafeteria, snack bar, carry out restaurants, take out restaurants; catering services.

56) For the class 35 services it seems to me that the relationship between retailing (and wholesaling) services of particular goods, and the goods themselves, is sufficiently close in this instance, bearing in mind the similarity and nature of the respective marks, that the consumer will put the common presence of the words SQUEEZE LIFE down to the respective undertakings being the same or being related. Effectively, the goods will be seen as the own brand of the retailer. The same applies to the services in class 43. The goods will be seen as those which can be taken or carried out and consumed away from the restaurant itself. Even in relation to restaurants which do not offer carry-out facilities the goods will be seen as some form or brand extension. **There is a likelihood of confusion.**

57) I next consider the services I held to be similar to a low degree:

> **Class 35:** Retail services in the field of coffee, tea, cocoa; wholesale store services and wholesale ordering services all in the field of coffee, tea, cocoa; mail order retail services and mail order retail catalog services, computerized online ordering services, computerized online retail services, online ordering services and online retail store services all in the field of coffee, tea, cocoa

58) Here, by way of example, the context would be to consider the average consumer encountering the applied for mark used in relation to the retailing of tea, coffee, cocoa etc and to then encounter the earlier mark used in relation to water, fruit juices etc on the other (or vice versa). In my view, the factors do not combine to create a likelihood of confusion. The commonality in the SQUEEZE LIFE element would not necessarily be assumed by the average consumer to indicate an economic link. **The factors do not combine to result in there being a likelihood of confusion.** The same applies to the services for which I found no similarity:

> **Class 35:** Business administration; business management; franchising, namely, providing technical assistance in the establishment and/or

operation of restaurants, cafes, coffee houses and snack bars; ; retail services in the field of nutritional supplements and dietary supplements; wholesale store services and wholesale ordering services all in the field of nutritional supplements and dietary supplements; mail order retail services and mail order retail catalog services, computerized online ordering services, computerized online retail services, online ordering services and online retail store services all in the field of all in the field of nutritional supplements and dietary supplements; computerized online gift registry and ordering services.

Class 43: Contract catering services; food preparation.

59) As has been held many times, if the goods/services are not similar, there can be no likelihood of confusion[7].

Outcome

60) Bearing in mind my findings, and bearing in mind the opponent's position at the hearing, the outcome is that the following goods/services are to be refused registration:

Class 32: Fruit juices; fruit and juice based beverages; fruit drinks and soft drinks containing fruit juices; frozen fruit beverages and frozen fruit-based beverages; fruit concentrates and purees used as ingredients of beverages; beverage concentrates and syrups for making frozen blended beverages; sparkling fruit and juice based beverages and soda beverages; vegetable-fruit juices; vegetable-based beverages; beverages containing vegetable juices; liquid and powdered beverage mixes; flavoring syrups for making tea and herbal tea-based beverages; water, mineral water, sparkling water, drinking water with vitamins, and other non-alcoholic drinks; soft drinks; soda pop beverages; flavoring syrups for making beverages; flavored and unflavored bottled waters; energy drinks; soy-based beverages not being milk substitutes; soy drinks and soy-based beverages; nut milk and nut juice.

Class 35: Retail services in the field of non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods; wholesale store services and wholesale ordering services all in the field of non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods; mail order retail services and mail order retail catalog services, computerized online ordering services, computerized online retail services, online ordering services and online retail store services all in the field of non-alcoholic beverages including fruit juice, vegetable juice, water, packaged and prepared foods

[7] See, for example, *Waterford Wedgwood plc v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)* Case C-398/07

Class 43: Restaurant, cafe, cafeteria, snack bar, carry out restaurants, take out restaurants; catering services; carry out restaurant services.

61) But the application may proceed to registration for the following:

Class 35: Business administration; business management; franchising, namely, providing technical assistance in the establishment and/or operation of restaurants, cafes, coffee houses and snack bars; retail services in the field of coffee, tea, cocoa, nutritional supplements and dietary supplements, domestic, kitchen and household electric and non-electric appliances, housewares, kitchenware, watches, stop watches, books, musical recordings, blank books, books, tote bags, purses, briefcases, book bags, valises and umbrellas, all made of cloth, plastic, or leather, key fobs of leather, clothing, headwear, caps and hats, games and puzzles; wholesale store services and wholesale ordering services all in the field of coffee, tea, cocoa, nutritional supplements and dietary supplements, domestic, kitchen and household electric and non-electric appliances, housewares, kitchenware, watches, stop watches, books, musical recordings, blank books, books, tote bags, purses, briefcases, book bags, valises and umbrellas, all made of cloth, plastic, or leather, key fobs of leather, clothing, headwear, caps and hats, games and puzzles; mail order retail services and mail order retail catalog services, computerized online ordering services, computerized online retail services, online ordering services and online retail store services all in the field of coffee, tea, cocoa, nutritional supplements and dietary supplements, domestic, kitchen and household electric and non-electric appliances, housewares, kitchenware, watches, stop watches, books, musical recordings, blank books, books, tote bags, purses, briefcases, book bags, valises and umbrellas, all made of cloth, plastic, or leather, key fobs of leather, clothing, headwear, caps and hats, games and puzzles; computerized online gift registry and ordering services.

Class 43: Contract catering services; food preparation.

Costs

62) As the outcome represents something of a score draw, I do not intend to favour either party with an award of costs.

Dated this 30th day of January 2014

Oliver Morris
For the Registrar,
The Comptroller-General