

**O-517-16**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF AN APPLICATION UNDER NO 500950  
BY GOYA FOODS INC  
TO CANCEL REGISTRATION NO 3004544  
IN THE NAME OF ASNAKECH THOMAS**

## Background

1. Registration No 3004544 is for the trade mark AMARO GAYO COFFEE and stands in the name of Asnakech Thomas (“the registered proprietor”). It has a filing date of 22 February 2013 (the relevant date) and was entered in the register on 18 October 2013. It is registered in respect of the following goods and services:

Class 30

Coffee plantations

Class 35

Coffee exporting, coffee franchising; retail and wholesale services connected with the sale of coffee

Class 39

Packaging of coffee, transporting coffee, distribution of coffee

Class 40

Coffee washing, coffee processing, coffee cleaning, coffee cupping, coffee liquoring, coffee grinding, coffee roasting, coffee freeze-drying.

2. On 6 August 2015, Goya Foods Inc (“the applicant”) filed an application seeking to declare the registration invalid on grounds under sections 3(1)(b) and 3(1)(c) and on multiple grounds under 3(6) of the Trade Marks Act 1994 (“the Act”). It also seeks invalidation on grounds under section 5(2) of the Act in support of which it relies on the following UK and European Union (“EUTM”) registrations:

2278362

GOYA

EUTM 4845772



3. The registered proprietor filed a counterstatement. It is a lengthy document but essentially requests dismissal of the application for invalidation. Both parties filed evidence with the registered proprietor also filing written submissions. I will refer to all of this material in more detail, as necessary, later in this decision. The matter came before me for a hearing on 15 September 2016 when the registered proprietor was in attendance and was represented by her husband, Mr Thomas. The applicant was represented by Mr Julius Stobbs of Stobbs IP, its legal representatives throughout these proceedings.

4. During the course of the proceedings the applicant withdrew several of its initial objections under sections 5(2) and 3(6) of the Act. In its skeleton argument, filed in advance of the hearing, the applicant indicated it was no longer pursuing its objection under section 3(6) at all. At the hearing itself, Mr Stobbs confirmed, as stated in its statement of grounds, that the remaining objection under section 5 of the Act was an objection in the alternative which, as I explained to the registered proprietor, means it would be considered only were I to find against the applicant in its remaining objections under section 3 of the Act.

### **The objections under section 3(1)(b) and (c) of the Act**

5. Section 3(1) of the Act (so far as is relevant) states:

“3(1) The following shall not be registered –

(a) -

(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,

(d) –

Provided that, a trade mark shall not be refused registration by virtue of paragraph (b), (c) or (d) above if, before the date of application for registration, it has in fact acquired a distinctive character as a result of the use made of it.”

6. The applicant’s objections under sections 3(1)(b) and (c) are both based upon the mark being descriptive of characteristics of the goods. As there is no other argument put forward as to why the mark falls foul of section 3(1)(b), it follows that both grounds will stand or fall together (see the comments of Anna Carboni sitting as the Appointed Person in O-363-09 *COMBI STEAM Trade Mark*). Accordingly, there is no need to consider the section 3(1)(b) ground independently of the section 3(1)(c) ground.

7. The case law under section 3(1)(c) (corresponding to article 7(1)(c) of the EUTM Regulation, formerly article 7(1)(c) of the CTM Regulation ) was summarised by Arnold J. in *Starbucks (HK) Ltd v British Sky Broadcasting Group Plc* [2012] EWHC 3074 (Ch). He stated:

“91. The principles to be applied under art.7(1)(c) of the CTM Regulation were conveniently summarised by the CJEU in *Agencja Wydawnicza Technopol sp. z o.o. v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)* (C-51/10 P) [2011] E.T.M.R. 34 as follows:

“33. A sign which, in relation to the goods or services for which its registration as a mark is applied for, has descriptive character for the purposes of Article 7(1)(c) of Regulation No 40/94 is – save where Article 7(3) applies – devoid of any distinctive character as regards those goods or services (as regards Article 3 of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ 1989 L 40 , p. 1), see, by analogy, [2004] ECR I-1699, paragraph 19; as regards Article 7 of Regulation No 40/94, see *Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) v Wm Wrigley Jr Co* (C-191/01 P) [2004] 1 W.L.R. 1728 [2003] E.C.R. I-12447; [2004] E.T.M.R.

9; [2004] R.P.C. 18, paragraph 30, and the order in *Streamserve v OHIM* (C-150/02 P) [2004] E.C.R. I-1461, paragraph 24).

36. ... due account must be taken of the objective pursued by Article 7(1)(c) of Regulation No 40/94. Each of the grounds for refusal listed in Article 7(1) must be interpreted in the light of the general interest underlying it (see, inter alia, *Henkel KGaA v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)* (C-456/01 P) [2004] E.C.R. I-5089; [2005] E.T.M.R. 44, paragraph 45, and *Lego Juris v OHIM* (C-48/09 P), paragraph 43).

37. The general interest underlying Article 7(1)(c) of Regulation No 40/94 is that of ensuring that descriptive signs relating to one or more characteristics of the goods or services in respect of which registration as a mark is sought may be freely used by all traders offering such goods or services (see, to that effect, *OHIM v Wrigley*, paragraph 31 and the case-law cited).

38. With a view to ensuring that that objective of free use is fully met, the Court has stated that, in order for OHIM to refuse to register a sign on the basis of Article 7(1)(c) of Regulation No 40/94, it is not necessary that the sign in question actually be in use at the time of the application for registration in a way that is descriptive. It is sufficient that the sign could be used for such purposes (*OHIM v Wrigley*, paragraph 32; *Campina Melkunie*, paragraph 38; and the order of 5 February 2010 in *Mergel and Others v OHIM* (C-80/09 P), paragraph 37).

39. By the same token, the Court has stated that the application of that ground for refusal does not depend on there being a real, current or serious need to leave a sign or indication free and that it is therefore of no relevance to know the number of competitors who have an interest, or who might have an interest, in using the sign in question (Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee* [1999] ECR I-

2779, paragraph 35, and Case C-363/99 *Koninklijke KPN Nederland* [2004] ECR I-1619, paragraph 38). It is, furthermore, irrelevant whether there are other, more usual, signs than that at issue for designating the same characteristics of the goods or services referred to in the application for registration (*Koninklijke KPN Nederland*, paragraph 57).

And;

46. As was pointed out in paragraph 33 above, the descriptive signs referred to in Article 7(1)(c) of Regulation No 40/94 are also devoid of any distinctive character for the purposes of Article 7(1)(b) of that regulation. Conversely, a sign may be devoid of distinctive character for the purposes of Article 7(1)(b) for reasons other than the fact that it may be descriptive (see, with regard to the identical provision laid down in Article 3 of Directive 89/104, *Koninklijke KPN Nederland*, paragraph 86, and *Campina Melkunie*, paragraph 19).

47. There is therefore a measure of overlap between the scope of Article 7(1)(b) of Regulation No 40/94 and the scope of Article 7(1)(c) of that regulation (see, by analogy, *Koninklijke KPN Nederland*, paragraph 67), Article 7(1)(b) being distinguished from Article 7(1)(c) in that it covers all the circumstances in which a sign is not capable of distinguishing the goods or services of one undertaking from those of other undertakings.

48. In those circumstances, it is important for the correct application of Article 7(1) of Regulation No 40/94 to ensure that the ground for refusal set out in Article 7(1)(c) of that regulation duly continues to be applied only to the situations specifically covered by that ground for refusal.

49. The situations specifically covered by Article 7(1)(c) of Regulation No.40/94 are those in which the sign in respect of which registration as a mark is sought is capable of designating a 'characteristic' of the goods or services referred to in the application. By using, in Article

7(1)(c) of Regulation No 40/94, the terms ‘the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service, or other characteristics of the goods or service’, the legislature made it clear, first, that the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service must all be regarded as characteristics of goods or services and, secondly, that that list is not exhaustive, since any other characteristics of goods or services may also be taken into account.

50. The fact that the legislature chose to use the word ‘characteristic’ highlights the fact that the signs referred to in Article 7(1)(c) of Regulation No 40/94 are merely those which serve to designate a property, easily recognisable by the relevant class of persons, of the goods or the services in respect of which registration is sought. As the Court has pointed out, a sign can be refused registration on the basis of Article 7(1)(c) of Regulation No 40/94 only if it is reasonable to believe that it will actually be recognised by the relevant class of persons as a description of one of those characteristics (see, by analogy, as regards the identical provision laid down in Article 3 of Directive 89/104, *Windsurfing Chiemsee*, paragraph 31, and *Koninklijke KPN Nederland*, paragraph 56).”

92. In addition, a sign is caught by the exclusion from registration in art.7(1)(c) if at least one of its possible meanings designates a characteristic of the goods or services concerned: see *OHIM v Wrigley* [2003] E.C.R. I-12447 at [32] and *Koninklijke KPN Nederland NV v Benelux-Merkenbureau* (C-363/99 [2004] E.C.R. I-1619; [2004] E.T.M.R. 57 at [97].”

8. I pause at this point to note that the specification of goods in class 30 is recorded as being “Coffee plantations”. This is plainly incorrect, however, both parties appear to have accepted that the goods at issue is “coffee” and have focussed their evidence and submissions accordingly. I proceed on that basis.

9. The matter must be assessed from the perspective of the relevant consumer of the goods and services in question (see *Matratzen Concord AG v Hukla Germany* SA C-421/04). For 'coffee' the relevant consumer will be a member of the general public as well as those in business such as caterers or catering supplies companies. As for the services of the registration, whilst I do not exclude the possibility that some of them may be used by the general public (e.g. coffee grinding), for the vast majority of them the relevant consumer will be those in the coffee business.

10. In its statement of grounds, the applicant puts its case as follows:

"We believe that the mark AMARO GAYO COFFEE exclusively designates a characteristic of the goods or services covered ...Gayo is a term relating to a geographical location or tribe concerning production of coffee, and AMARO is a place in Ethiopia from which relevant coffee is produced. Bearing in mind the term "coffee" is obviously descriptive in the English language; the addition of these two descriptive terms in the mark simply creates a mark which designates characteristics of the goods or services.

In addition, the Applicant submits that the mark covered by this registration is devoid of any distinctive character...insofar as none of the individual terms AMARO, GAYO or COFFEE have any distinctive character in the context of the goods covered by the registration. The Applicant submits that the combination does not create any distinctive character. In view of the meanings of the respective terms a consumer will simply see the term AMARO GAYO COFFEE as something which does not function as a unique indication of origin and as such has (sic) a non distinctive term."

11. At the hearing, Mr Stobbs submitted:

"...COFFEE is descriptive, AMARO is the name of a region where coffee is produced and GAYO is the name of a region and a region where coffee is produced. The combination creates nothing by way of unusualness or addition in any way that imbues that mark with any kind of distinctiveness or unusual facility that would mean that the consumer would understand it as being



anything other than a simple indication of two geographical locations, plus a descriptive term.”

12. Mr Thomas challenged Mr Stobbs’ description of Amaro as the name of a “region” submitting:

“Amaro is a place. It is not a region. Amaro is a district in Ethiopia”.

13. The difference between ‘region’, ‘place’ and ‘district’ is something of a semantic one. It is clear from the counterstatement, the registered proprietor’s own witness statement and exhibits and, Mr Thomas’s concession at the hearing, is that the registered proprietor accepts that AMARO has a geographical meaning. Indeed Mr Thomas went further and also accepted that GAYO is well-known as a geographic location in Sumatra in Indonesia and that both locations are known as coffee producing areas. He submitted:

“We are not seeking, we never have and we do not seek to monopolise any other person’s use of the word AMARO and GAYO....Other coffee traders are in fact using the word Amaro for their coffee...”

and;

“..other people, we are fully aware, are producing and selling coffee from Amaro. They describe their coffee as Amaro coffee. We have no objection to this, no objection to this at all, just as we have indicated we have no objection to the people of Indonesia selling their coffee as Gayo. None at all.”

14. Despite this, Mr Thomas submitted that the application for invalidation should be rejected. He said:

“I want to indicate that Gayo is not a place in Ethiopia, as we have been at pains to point out.”

He went on to submit that GAYO means waterfall. Comments in the counter-statement sum up his submissions on this point. It states:

“As already mentioned the word GAYO itself with the original meaning of waterfall moves from Korete (not previously a written language but now it is being adapted into Latin script) into Amharic and then is transliterated into English.”

15. Mr Thomas went on to submit:

“I would like to emphasise the point that is brought out in our papers that when we decided upon our name, we were not in any way pointing at that Gayo in Sumatra in Indonesia. No way. We were thinking purely from the Ethiopian wording and the translation.”

16. The vast majority of relevant UK consumers is highly unlikely to have any knowledge of the Korete and Amharic languages or the original meaning of any words transliterated from them into English. There is no reason why, on seeing the word GAYO, they would see it as meaning waterfall. Whether or not there is a place in Ethiopia called Gayo, as set out above, Mr Thomas accepts it is a coffee producing area in Indonesia. This is supported by witness statements, filed by the applicant, as follows:

- William Hobby, a coffee trader at D R Wakefield & Co Ltd a company which imports and supplies various coffees to the UK coffee trade. Mr Hobby states that he has been in the coffee industry since 2007 and knows “the word GAYO as being a region in Sumatra, Indonesia which is renowned for its luxury coffee, which has led to “GAYO COFFEE” being a well known type of coffee”;
- Howard Barwick, a Coffee Programme Manager at Bewley’s Tea and Coffee UK Ltd. He states he has been in the coffee industry since 2008 and is

“familiar with the word “GAYO” which indicates an Indonesian region where GAYO COFFEE is grown”;

- Alessandro Bonuzzi, Head of Training at Naked Coffee Limited trading as Artisan. He states his understanding of GAYO being “a region in Sumatra, Indonesia where fine Arabica beans are grown. GAYO COFFEE is well known as being from here”.

17. In addition, exhibited to the witness statement of Christopher Andrew Hawkes, a solicitor at Stobbs IP, are a number of exhibits including:

- CAH1: Consisting of an extract from *Coffee: A Comprehensive Guide to the Bean, the Beverage and the Industry* Ed. Robert W Thurston, Jonathan Morris and Shawn Steiman ©2013. At page 143 of the extract from this UK publication it states:
  - “Many Indonesian coffees have become well known as speciality coffee, such as Java, Mandheling, Gayo...Gayo coffee has a strong aroma and balanced body. Besides Gayo coffee, the Aceh region also produces...”
- CAH6: A printout from the Agricultural Attaché of the Indonesian Embassy in Brussels’ website [attanibrussel.eu](http://attanibrussel.eu) which bears an indication that it was updated in May 2015. It is headed “Gayo Arabica Coffee” and begins “Gayo is located at the highland in the central part of Aceh province...” and continues “The soil, the landscape, and the climate of the area contribute to various rich characters, strong body and complex flavour for Gayo Arabica coffee” and that “Gayo Arabica Coffee has the rich taste of the world coffees. Due to its strong characters, the coffee is often added to a coffee blend to enhance aroma and body to the blend.”
- CAH10: A printout from Wikipedia entitled “Coffee production in Indonesia”. It begins “Indonesia was the fourth largest producer of coffee in the world in 2014.” It goes on to state: “In general, Indonesia’s Arabica coffees have low

acidity and strong body, which makes them ideal for blending with higher acidity coffees from Central America and East Africa.” A subsection referring to Sumatran coffee, describes three separate coffees, one of which is Gayo coffee;

- CAH 11: A printout from coffeereview.com described as “The World’s Leading Coffee Guide” and entitled “Coffees from India and the Pacific: Sumatra” which appears to date from 2015 and refers to “Gayo Mountain washed”, “Gayo semi-dry” and “Gayo unwashed” coffees.
- CAH12: A printout from nutscoffee.com entitled Coffee History dated June 2015. It bears a subheading “Aceh Gayo Coffee” which refers to “Arabica coffee [being] generally grown in the Gayo highlands region”. A further subheading of “Gayo coffee” begins “Gayo is coffee country”. There are numerous references to Gayo Coffee within the text.

18. Whilst much of this material is or appears to be dated after the relevant date in these proceedings there is nothing to suggest the situation was any different at that earlier date. In any event, some of the extracts from the various publications refer to the coffee growing areas in an historical context and the registered proprietor has not sought to challenge any of that evidence.

19. In his oral submissions, Mr Stobbs recognised that the mark in suit is made up of a number of elements and that the mark has to be considered as a whole. He submitted that in the present case the combination:

“does nothing to make the mark distinctive”

and that the relevant consumer would:

“assume that this may be a blended product of coffee originating from two different places and that, on this basis, it is simply a blend of coffee from Gayo

and Amaro and that that is communicated clearly and unambiguously by the mark”.

In response, Mr Thomas submitted:

“the question of blending is a red herring in this discussion [because] blending of coffee...is not allowed by the Ethiopia Government. Okay, what happens outside Ethiopia is not our business, but inside Ethiopia we only are only allowed to sell our coffee as either washed coffee or sun dried coffee. All the coffee is sold as what is known as single source coffee, so the question of blending is a red herring.”

20. Whilst the Ethiopian government may not allow the registered proprietor to sell blended coffee in Ethiopia, the registration under consideration is a UK one and so the matter under consideration relates to what is or might be sold in or from the UK. There is no dispute that different coffees can be and are blended, with the mix of different varieties or grades producing e.g. an enhanced flavour combination. Whether or not blending is allowed by the Ethiopian government, and as Mr Thomas appeared to recognise, blending can take place outside that country. In addition, the registration under consideration is not limited to single source coffee. Whilst I am not an avid coffee drinker, I am aware that coffee is often sold with reference to the type of bean, place of origin or the fact that it is a blended coffee and, for all of these reasons, I do not agree with Mr Thomas that the blending argument is “a red herring”.

21. The extract I have quoted above from CAH6 indicates that GAYO coffee is “often” blended. Whilst it may not happen at source, I have no evidence that Amaro coffee cannot be blended. The undisputed evidence shows that Sumatran coffees (of which it is accepted Gayo is one) are “ideal” for blending with coffees from other growing areas including those from East Africa which is where Ethiopia is located.

22. The mark in suit consists of the three words AMARO GAYO COFFEE. By the registered proprietor’s own admissions, both AMARO and GAYO are geographic locations known for producing coffee and coffee from those locations is sold with

reference to those locations. Whilst the former is in Ethiopia and the latter in Indonesia, there is nothing to suggest that coffees from these locations cannot be blended, indeed the evidence indicates the contrary. The word COFFEE has no distinctive character in respect of the goods and services for which the mark is registered. I have no evidence to indicate whether or not Amaro and Gayo coffees have been blended, however, it is not relevant to the issue I have to determine. Mr Stobbs referred me to the decisions in *GOLF USA v OHIM* T-230/05 and *Wm Wrigley Jr. Company v OHIM* C-191/01P. As he submitted: “The combination is not necessarily something that is commonly used, but nothing about the combination is sufficient to suggest that there was any kind of distinctive character there” and “the mark does not need to be actually in use in relation to the goods or services in a descriptive sense. It includes that it is sufficient...that such signs and indications could be used for such purposes”.

23. I find that **AMARO GAYO COFFEE** is a mark which consists exclusively of signs or indications which may serve, in trade, to designate a characteristic of coffee. In relation to the services of the registration, I take note that in *Fourneaux De France Trade Mark*, Case BL-O/240/02, Mr Geoffrey Hobbs Q.C. as the Appointed Person stated that:

“Having listened with care to the arguments that have been addressed to me on this appeal, I have come to the conclusion that cooker hoods and extractors are closely connected items of commerce, and that they are both so closely connected with cookers that it would be unrealistic to treat the words FOURNEAUX DE FRANCE as descriptive of the character of the latter but not the former. The expression "cookers from France" is descriptive at a high level of generality. That makes it suitable, in my view, for descriptive use in the marketing of units of equipment of the kind found in modern cooker installations including not only grilling and roasting units, but also hood and extractor units”.

Given that the subject matter of each of the services is coffee, I also find the objection under section 3(1)(c) of the Act succeeds in relation to each of the services for which the mark is registered.

24. As I indicated above, as the application has succeeded on the basis of the objection under section 3(1)(c) it also succeeds under section 3(1)(b) of the Act. That is not the end of the matter, however, as at the hearing, Mr Thomas referred to the proviso to section 3(1) and submitted:

“Part of our case is that my wife has been using her trade mark since 2006, well before her trade mark was registered. She was using it as a trade mark both in Ethiopia and internationally. I think that, as far as I can read this proviso, consideration should be given to this, that the arguments that Mr Stobbs has made fall to the ground because we have been using our trade mark properly and full, in Ethiopia and internationally.”

25. Mr Thomas confirmed that this argument had been raised for the first time at the hearing. The purpose of the counterstatement in cancellation proceedings, is to set out, in full, the basis of any defence to an attack on the registered mark so that the applicant is fully aware of it and can respond to that defence as it sees fit. Whilst it is not appropriate for such a defence to be raised at such a late stage, Mr Stobbs, sensibly, did not object to me considering it. In the circumstances, I need to do so only briefly.

26. In her witness statement, the registered proprietor provides figures for her “coffee growing and export business” for the years 2012/2013, 2013/2014 and 2014/2015 totalling 2,750,826 US\$ which relates to “our activities in the field of producing and exporting organic speciality coffee from Ethiopia to Germany, Japan and the USA”. These are not unsubstantial figures though they are not broken down in any way and there is no indication of what specific “activities” were undertaken or where, specifically, any sales were made. I referred Mr Thomas to the counterstatement and evidence filed on behalf of the registered proprietor and asked him to confirm my understanding that these documents all indicated that the registered proprietor had carried out no trade under the mark in the UK. He confirmed this but went on to submit:

“We have every intention of setting up an internet sales business to sell our coffee in the United Kingdom”

and:

“A lot of our coffee is bought in Europe, especially in Germany. The coffee is bought. The coffee is mainly sold in container loads of 18 tonnes. These container loads are bought by large coffee buyers, who then break it up into smaller quantities and sell it to the coffee roasters, smaller coffee roasters, so we do not know. It is always possible that coffee may have been sold in the United Kingdom without our knowledge...It is not impossible.”

27. There is nothing to suggest that the registered proprietor does not have a successful business in Ethiopia or that it successfully exports to other countries but this decision relates to a UK registration and thus, as Mr Stobbs was at pains to make clear, his client's objection related only to the UK. Whilst she may have a successful business, what the registered proprietor has not shown, and indeed what she has admitted, is that she has not traded in the UK in any of the goods or services for which the mark is registered. As I explained to Mr Thomas at the hearing, whatever her intentions may be and whatever a third party may or may not have done, in order to take advantage of the proviso to section 3(1), the registered proprietor has to show that the mark has acquired a distinctive character as a result of use made of it in the UK. The registered proprietor has not shown there to have been any trade under the mark in the UK and cannot therefore rely on the proviso.

28. Given my findings and the fact that the objections under section 5(2) were made in the alternative, there is no need for me to consider them. I do, however, recognise Mr Thomas' submission to the effect that insofar as the applicant would have sought to rely on its trade mark no 2278362, the registered proprietor had requested proof of use of it in relation to the goods for which it is registered in class 30. As Mr Stobbs acknowledged, no such evidence has been filed.



## Summary

29. The applicant has succeeded in relation to its objections under section 3(1)(b) and (c) of the Act. That being the case, the registration will be cancelled with effect from 22 February 2013 and be deemed never to have been made.

## Costs

30. The applicant having succeeded, it is entitled to an award of costs in its favour. Both parties agreed that this is a case where costs should be from the normal scale. I note that, earlier in the proceedings, the applicant sought an extension of time for filing its evidence. That led to a case management conference (“CMC”) being held to determine the matter. Whilst the extension of time was granted, I note that when he wrote to the parties confirming his decision in that regard, the Hearing Officer indicated that the CMC should not have been necessary had the applicant been more diligent in giving reasons for the request at the time it was made. I agree and award the registered proprietor the sum of £100 in respect of that CMC. In respect of the award due to the applicant in the substantive proceedings, I award it £200 for the fee paid to file the cancellation action, £200 for preparing and filing the cancellation application, £500 for preparing its own evidence and considering the registered proprietor’s evidence and £300 for the preparation for and attendance at the hearing. In that regard I note that Mr Stobbs attended by videoconference from his own offices.

31. Taking the competing awards into account, I order Asnakech Thomas to pay Goya Foods Incorporated the sum of **£1100**. This sum is to be paid within fourteen days of the expiry of the appeal period or within fourteen days of the final determination of this case if any appeal against this decision is unsuccessful.

**Dated this 3rd day of November 2016**

**Ann Corbett**

**For the Registrar**

**The Comptroller-General**