

**TRADE MARKS ACT 1994**

**IN THE MATTER OF APPLICATION NUMBER 2174953  
BY KENWOOD MARKS LIMITED  
TO REGISTER A TRADE MARK IN CLASS 7**

**AND**

**IN THE MATTER OF OPPOSITION THERETO  
UNDER NUMBER 49348 BY MAGIMIX S.A.**

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**IN THE MATTER OF Opposition thereto  
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### BACKGROUND

1. On 14 August 1998 Kenwood Marks Limited applied to register the following series of three trade marks in Class 7 for a specification of "Food processors; machines for mixing, pulping, grinding, mincing, shredding, liquidizing and blending foodstuffs; machines for peeling vegetables; food mixers; coffee grinders":-

MAXI - MIX  
Maxi - Mix  
MaxiMix

2. The application was subsequently accepted by the Registrar and published in the Trade Marks Journal. On 7 January 1999 F J Cleveland on behalf of Magimix S.A. filed a Notice of Opposition against the application. In summary, the grounds of opposition were:-

(i) Under Section 3(6) of the Act in that the application was made in bad faith because of the opponents registration of the trade mark MAGIMIX for food processors in the UK (No. 1063939) and their reputation in the trade mark;

(ii) Under Section 5(2)(b) of the Act because the trade marks applied for are confusingly similar to trade mark registration number 1063939 in Class 7, owned by the opponent and registered for the same goods. Details of registration number 1063939 are as follows:-

| MARK    | DATE OF REGISTRATION | PROPRIETOR   | CLASS | SPECIFICATION   |
|---------|----------------------|--------------|-------|---|
| MAGIMIX | 7 June 1976          | MAGIMIX S.A. | 7     | Electrically operated mixing machines, all for kitchen use; and grinders (machines) other than hand-operated, for domestic use. |

(iii) Under Section 5(4)(a) of the Act in that the trade marks applied for are liable to be prevented by virtue of the law of passing off by reason of the reputation acquired by the opponent in their mark MAGIMIX.

3. The applicants, through their agents Baron & Warren, filed a counterstatement denying the grounds of opposition. Both sides have asked for an award of costs in their favour and have filed evidence. The matter came to be heard on 31 July 2001 when the applicant for registration was represented by Mr Stacey of Baron & Warren and the opponents by Mr Chacksfield of Counsel instructed by F J Cleveland.

### **Opponent's Evidence**

4. This consists of two statutory declarations, one each from Peter Joseph Houlihan and John Burgess, dated 26 November 1999 and 29 November 1999 respectively.

5. Mr Houlihan is a trade mark assistant employed by FJ Cleveland, the opponent's trade mark agents. He firstly draws attention to Exhibit PJH 1 to his declaration which consists of certified register extracts from the Trade Marks Registry in relation to: trade mark registration number 1215670 for the mark MAGIMIX in Class 8; trade mark registration number 1462144 for the mark MAGIMIX in Class 11; and trade mark registration number 1462145 for the mark MAGIMIX in Class 21. Details of these registrations are at Annex One to this decision.

6. Next, at Exhibits PJH 2 and PJH 3 to his declaration, Mr Houlihan provides a copy of an advertisement for the mark MAGIMIX, used on a combined juice extract and citrus press, which is taken from the Weekend Supplement to the Daily Telegraph dated 22 May 1999; and a copy of pages from the food processor section of the Argos Autumn/Winter 1999 catalogue which show a MAGIMIX processor. Both Exhibits relate to advertisements after the relevant date for the current proceedings.

7. Mr Houlihan goes on to state that with the aim of obtaining evidence to see whether there existed a likelihood of confusion between the marks MAGIMIX and MAXIMIX in practice, he devised a series of quotations where he would ask for a MAGIMIX food processor from sales staff in well known high street retailers to test the reaction of the sales staff. The following is Mr Houlihan's account of all his conversations with sales staff:-

- "(i) At round 3.20 pm on the Tuesday 12 October 1999, I entered the D H Evans store on Oxford Street, London and entered the electrical appliances department of the store. I spoke to a gentleman who was part of the sales staff asking about food processors and he pointed me to another member of staff who he told me could help me. I approached this lady and said that I was looking for a food processor and had been told to get a MAXIMIX processor. She asked whether I meant a MAGIMIX processor and I replied that I had been told a MAXIMIX processor. She went on to tell me that they didn't have a MAXIMIX processor but they did have a MAGIMIX processor. She led me to the MAGIMIX processors and since she said I seemed so certain that it was a MAXIMIX processor I wanted, she asked a colleague whether she had heard of a MAXIMIX processor. The colleague replied that she had not heard of a MAXIMIX processor either. The first lady then proceeded to describe to me that MAGIMIX processors came in different sizes and prices (for example, one was in chrome) and then she left me to browse through the processors.

- (ii) At around 3.35 pm on 12 October 1999, I entered the John Lewis store on Oxford Street, London and went to the electrical appliances department. I had seen that near the food processor was a desk behind which were two sales staff. One of the sales staff was dealing with another customer so I approached the other lady who I noted was wearing a badge on which were the words KENWOOD CONSULTANT. I said to this lady that I was looking for a food processor and had been recommended a MAXIMIX processor. She replied (correcting me), "MAGIMIX" and then proceeded to tell me that if I waited a moment the other lady on the desk would be able to deal with me. She then proceeded to ask whether it was in particular a MAGIMIX processor that I was looking for and I replied that that was recommended to me. The other lady on the desk shortly came to my aid and I asked her what sort of price range the MAGIMIX processors came in and she explained in detail at least three different prices and the reasons for these differences. ie. different size motors and capacity. I thanked her for her help and before I left she offered me a leaflet. There is now produced and shown to me Exhibit PJH 4 which I recognise as the leaflet given to me by the member of sales staff in the John Lewis electrical department.
- (iii) At around 3.45 pm on 12 October 1999 I entered the Debenhams store in Oxford Street, London and found the electrical appliances department. Again, I approached two sales staff who were standing behind a desk near the food processors. I told one of them that I was looking for a processor and had been recommended a MAXIMIX processor. She spoke to her colleague next to her and asked where the food processors were. The second sales assistant pointed behind her and told me that the food processors were behind her and that that was all they had. The first assistant then interrupted and asked the second assistant "What about a MAXIMIX processor?" The second assistant replied to me "Yes, there is a MAGIMIX one over there" and she pointed at a chrome one on show out of a box. I went over to the chrome food processor (which was a MAGIMIX processor) and then browsed through the whole range of processors.
- (iv) At around 4.10 pm on 12 October 1999 I went to Selfridges on Oxford Street, London. Again I went to the electrical appliances department and near the food processor I approached a member of sales staff and said that I was looking for a food processor and had been recommended a MAXIMIX processor. He replied (correcting me) "MAGIMIX" and proceeded to take me over to the MAGIMIX processors. He then explained in detail the differences between the processors, principally the motor sizes and capacities and gave me the prices of each. He gave me more detailed information about the pros and cons of such processors including the fact that for mixing dough and baking, a MAGIMIX food processor might not be the best option. I said that I would have to think about it some more and left the department."

8. The opponent's second statutory declaration comes from John Burgess who is the Managing Director of Magimix United Kingdom Limited, a subsidiary of Magimix SA (the

opponent).

9. Mr Burgess states that the trade mark MAGIMIX was first used by his company in the UK in 1974 and has been continuously in use since that date on food processors. It has also subsequently been used on ice cream makers (since 1989) and on blenders, hot trays, kettles, ovens and coffee makers since 1994/95. Mr Burgess explains that the mark is applied directly to the goods as well as being applied to all packaging and at Exhibit JBB1 on his declaration is a MAGIMIX brochure showing use of the mark. On the final page of this brochure reference is made to the MAGIMIX Spring 1999 media schedule and on page two some details are provided in relation to 1998 sales.

10. Next, Mr Burgess provides the following details of turnover from sales under the mark MAGIMIX in the UK -

| <b>Year</b> | <b>Turnover £</b> |
|-------------|-------------------|
| 1998        | 5,532,372         |
| 1996/1997   | 5,211,407         |
| 1995/1996   | 4,524,677         |
| 1994/1995   | 3,774,960         |
| 1993/1994   | 3,010,678         |
| 1992/1993   | 2,210,893         |
| 1991/1992   | 2,528,660         |

and he adds that the goods have been made available throughout the UK through well known high street retailers such as Debenhams, John Lewis, DH Evans, Comet and Currys.

11. In addition Mr Burgess points out that his company has spent the following amounts advertising the goods in the United Kingdom bearing the MAGIMIX mark.

| <b>Year</b> | <b>Amount spent on advertising £</b> |
|-------------|--------------------------------------|
| 1997/1998   | 377,000                              |
| 1996/1997   | 311,000                              |
| 1995/1996   | 353,000                              |
| 1994/1995   | 259,000                              |
| 1993/1994   | 222,000                              |

and that this money has been spent on store demonstrations and advertising; consumer exhibitions and promotions and on newspaper space in the Daily Telegraph, the Sunday Telegraph, The Evening Standard, The Times, The Guardian, The Observer Life Magazine and the Independent amongst others. He refers to the back page of his exhibit JBB1 which shows the advertisement of MAGIMIX goods from May-July 1999 in national newspapers. These advertisements are after the relevant date of the current proceedings.

12. Mr Burgess goes on to state that his company's MAGIMIX goods are used by most top television chefs on the BBC and ITV and in particular are used by Gary Rhodes, Mary Berry,

Richard Cawley, Thane Prince, Nigel Slater and Sophie Grigson.

13. Mr Burgess firmly believes that because of the use of MAGIMIX by his company the MAGIMIX mark has not only acquired a reputation in the United Kingdom but is the brand leader in its field and is well known to the United Kingdom public at large.

#### **Applicant's Evidence**

14. This consists of a statutory declaration by James Maxwell Stacey, dated 27 April 2000. Mr Stacey is a partner in the firm of Baron & Warren the applicant's trade mark agents.

15. Mr Stacey has read the declaration of Mr Burgess for the opponents and notes that:-

- (i) the opponent's mark is used all in lower case in the same font ie. magimix;
- (ii) the opponent's mark never appears to have been, depicted as two separate elements ie. Maxi-Mix or MagiMix;
- (iii) the opponent as part of its corporate get-up appears always to use its name and mark in the same manner ie. magimix.

16. Next, Mr Stacey refers to the statutory declaration made on behalf of the opponent by Mr Peter Joseph Houlihan and comments that:

- (i) it confirms that the opponent always depicts its mark in lower case and in the same font and that Argos adopts this manner of depiction in its catalogue;
- (ii) Exhibit PJH 4 reveals that the opponent uses secondary trade marks such as Cuisine Systems, The Privilege and the Quartz, but the opponent's marks MAGIMIX always forms the core house mark while the applicant uses its core house mark KENWOOD on all of its products in combination with secondary trade marks;
- (iii) details of the precise wording of Mr Houlihan's series of questions to the sales staff in the retail outlets are not provided and that Mr Houlihan's recollections of his conversations with the sales staff (paragraphs 8 to 11 of Mr Houlihan's declaration) constitute hearsay evidence.

17. Mr Stacey states that the business conducted by the applicant is the manufacture and marketing of kitchen appliances including food processors. At Exhibit JMS 1 to his declaration, Mr Stacey provides extracts from the KENWOOD annual report and accounts for the year ending 2 April 1999 which shows that for the year ending on that date the turnover generated by the Kenwood Group in the UK amounted to £40,939,000. Mr Stacey continues, "the company policy is to use the housemark KENWOOD on all of the goods and their packaging sold in the UK and other trade marks are utilised only on the basis of being secondary marks. He concludes that the mark as applied for would be associated with KENWOOD and no other brand.

18. While Mr Stacey acknowledges that the opponent has a real and significant presence in the UK market, he states that as both brands (KENWOOD and MAGIMIX) are well established, the consumer will be well acquainted with the two brands and that there will be no likelihood of confusion as the applicant's machine will likely be referred to as KENWOOD Maxi-Mix.

19. Mr Stacey contends that the separating of the element MAXI from the element MIX in the applicant's mark, serves to emphasise the mixing nature of the product and also emphasises the quasi laudatory nature of the word MAXI.

### **Opponent's Evidence in Reply**

20. This comprises a second statutory declaration by Peter Joseph Houlihan which is dated 27 October 2000.

21. Mr Houlihan refers to his written record of his conversations with shop assistants in stores on Oxford Street, which appeared in his earlier declaration. He states that he was aware that the record of these conversations would be used in evidence and he emphasises that he took notes of each conversation within ten minutes of the conversation taking place.

22. This completes my summary of the evidence filed in this case. I now turn to the decision.

### **DECISION**

23. Prior to the hearing Mr Stacey deleted the third mark in the applicant's series ie. the mark MaxiMix. Accordingly, the series applied for consists of a series of two marks - MAXI-MIX and Maxi-Mix - which are the marks now under consideration for the purposes of the opposition.

24. Also prior to the hearing Mr Chacksfield withdrew the ground of opposition under Section 3(6) of the Act.

25. I turn first to the ground of opposition under Section 5(2)(b) which reads as follows:

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

- (a) it is identical with an earlier trade mark and is to be registered for goods or services similar to those for which the earlier trade mark is protected, or
- (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."

26. An earlier right is defined in Section 6, the relevant parts of which state

6.-(1) .....

- (a) a registered trade mark, international trade mark (UK) or Community trade mark which has a date of application for registration earlier than that of the trade mark in question, taking account (where appropriate) of the priorities claimed in respect of the trade marks,

27. I take into account the guidance provided by the European Court of Justice (ECJ) in *Sabel BV v Puma AG* [1998] E.T.M.R. 1, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc* [1999] E.T.M.R. 1, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* [2000] F.S.R. 77 and *Marca Mode CV v Adidas AG* [2000] E.T.M.R. 723.

It is clear from these cases that:-

- (a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors; *Sabel BV v Puma AG*, paragraph 22;
- (b) the matter must be judged through the eyes of the average consumer of the goods/services in question; *Sabel BV v. Puma AG*, paragraph 23, 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; *Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V.* paragraph 27;
- (c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details; *Sabel BV v. Puma AG*, paragraph 23;
- (d) the visual, aural and conceptual similarities of the marks must therefore be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components; *Sabel BV v. Puma AG*, paragraph 23;
- (e) a lesser degree of similarity between the marks may be offset by a greater degree of similarity between the goods, and vice versa; *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraph 17;
- (f) there is a greater likelihood of confusion where the earlier trade mark has a highly distinctive character, either per se or because of the use that has been made of it; *Sabel BV v. Puma AG*, paragraph 24;
- (g) mere association, in the sense that the later mark brings the earlier mark to mind, is not sufficient for the purposes of Section 5(2); *Sabel BV v. Puma AG*, paragraph 26;
- (h) further, 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; *Marca Mode CV v. Adidas AG*, paragraph 41;

- (i) but if the association between the marks causes the public to wrongly believe that the respective goods come from the same or economically linked undertakings, there is a likelihood of confusion within the meaning of the section; *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraph 29.

28. In the light of the opponents prior registration in Class 7 (registration number 1063939) it was common ground that the same and similar goods are involved.

29. The reputation of a mark is an element to which importance may be attached in Section 5(2) considerations and in this regard Mr Chacksfield drew my attention to the details of the opponent's sales, length of use, advertising figures, and the outlets through which their goods are sold (contained in the statutory declaration of Mr Burgess) and the survey results mentioned in Mr Houlihan's declaration. While he conceded that many of the supporting exhibits to the declarations contained documents relating to periods after the relevant date for these proceedings, Mr Chacksfield claimed that the mark MAGIMIX possessed a considerable reputation in relation to the goods covered by the application in suit. In response, Mr Stacey was quick to point out that evidence of extensive use alone is not sufficient to demonstrate reputation, that the figures in relation to sales or advertising were not particularised in relation to Class 7, that there were no specific supporting details or exhibits of how the goods were sold, marketed or promoted during the relevant period and no direct evidence whatsoever (as opposed to mere assertion) relating to the reputation of the mark MAGIMIX with the public, except arguably the "survey" mentioned in Mr Houlihan's declaration. Mr Stacey was understandably critical of this "survey" which, he stated, was not a properly controlled or conducted exercise and formed a very small sample of people engaged in selling the product, as opposed to the more relevant public i.e. the consumer of the product. I share Mr Stacey's concerns. Like him, I have no doubt that the opponent has a real presence in the market place. However, in my view the evidence filed in this case does not demonstrate a reputation among the public for the mark MAGIMIX. While I accept that evidence filed in such cases before the Registrar should be proportionate to the costs involved in what is essentially a lower cost option for dispute resolution, an opponent seeking extended protection for a trade mark because of its reputation and enhanced distinctive character is under an obligation to demonstrate the repute of their mark with the average customer for the relevant goods. In my opinion this requires, at least, the filing of specific and relevant documentation going to the repute of the mark e.g. press cuttings, advertisements, independent trade support or analysis. To conclude, I do not consider that the opponent's have established a reputation in their mark for the purposes of these proceedings. I must therefore compare the mark applied for and the opponent's registration assuming normal and fair use of both marks. In relation to normal and fair use Mr Stacey stated that the applicant's mark will always be used with the KENWOOD house mark and that this would avoid any possibility of confusion. However, in my view normal and fair use of the mark includes use of the mark without KENWOOD. Furthermore there is nothing to prevent the assignment of the mark to another proprietor who would not be entitled to the mark KENWOOD.

30. In essence the test under Section 5(2)(b) is whether there are similarities in marks and goods which would combine to create a likelihood of confusion. In my consideration of whether there are similarities sufficient to show a likelihood of confusion I am guided by the recent judgements of the European Court of Justice mentioned earlier in this decision. The likelihood of confusion must be appreciated globally and I need to address the degree of visual, aural or conceptual similarity between the marks, evaluating the importance to be attached to those different elements, taking into account the category of goods in question and how they are marketed.

31. The marks applied for both consist of two ordinary dictionary words hyphenated. In totality, the words, in my view, allude to a large mixer or to goods which mix to maximum effect, either in relation to quality or quantity. The opponent's registration is of a single word, combining two elements, the invented word MAGI and the dictionary word MIX conjoined. In my opinion the MAGI element alludes to the word MAGIC and the mark, in totality, could well be perceived as relating to mixers with "magical" properties - "magical" in its laudatory context. It is, of course, possible to over analyse marks and in doing so shift away from the real test which is how marks would be perceived by customers in the normal course and circumstances of trade and I must bear this in mind when making comparisons.

32. How then should I approach the comparison of the marks. Mr Stacey contended that I should have particular regard to the dominant and distinctive components of the marks which in the case of the marks in suit was MAXI, especially in light of the hyphen present in the marks, whereas MAGIMIX had no such component but in any event the MAGI element alluded to a different concept. It is right in my view to give additional weight to arbitrary features and reduced weight to descriptive features in assessing the impact a mark has in the mind of an average customer and I am fortified by this by the guidance of the European Court of Justice in *Lloyd Schufabrik Meyer & Co GmbH v Klijsen B.V.*, paragraphs 24 and 26. However, even elements which are totally descriptive cannot be entirely discounted and as Mr Stacey agreed, respective marks must be considered in their totality.

33. Mr Chacksfield pointed out that the respective marks were of similar lengths, start with the same two letters MA and end with the same four letters IMIX, the differences being the replacement of one letter (the "G" with "X") and the addition of a hyphen. He argued that the addition of the hyphen/internal capitalization of the letter M only served to draw attention away from the variant letters "G" and "X" and that in aural use the presence or absence of a hyphen was irrelevant and that the variant "G" and "X" would both represent unstressed consonants. He submitted that on a conceptual basis the marks were very similar as both use the term MIX, together with quasi laudatory terms - MAXI or MAGI - the overall impression being of a good mixing machine. Mr Chacksfield also reminded me of the need to bear in mind imperfect recollection in the comparison of the marks. In my view Mr Chacksfield's submissions go to the points at issue and I give them due weight in my considerations.

34. Turning firstly to a visual comparison of the marks. Both marks consist of seven letters, with the third letter being different and the remaining six being the same and located in the same position within the respective word(s). Accordingly, the beginnings of the marks (the first two letters) and the endings of the marks (the last four letters) are identical, but the applicant's mark possesses a hyphen between the fourth and fifth letters. While on a side-by-

side comparison there are differences between the respective marks it seems to me that the overall similarities in the marks (their length, beginnings, endings and that they share seven out of their eight letters) means that, particularly when imperfect recollection is taken into account, there is considerable scope for visual confusion.

35. In relation to aural use, the hyphen present in the applicant's mark will, in my view, not be referred to by the average customer and the comparison is between the relevant words when spoken. The beginnings and endings of the marks sound the same and both marks consist of three syllables. I share Mr Chacksfield's view that the stress in both marks is on the first and third syllables (which are the same in both marks). While, once again, there are differences in the marks it seems to me that the overall similarities are such that, when imperfect recollection on the part of the purchasing public is taken into account, there is a strong possibility of aural confusion.

36. Next, I turn to a conceptual comparison of the marks. While I take Mr Chacksfield's point that both marks use the descriptive term MIX together with quasi laudatory terms (MAXI or MAGI) it seems to me that the words MAXI and MAGI have their own different meanings/connotations. However, I do not consider either mark to be particularly original, distinctive or memorable in a conceptual context and once again, it seems to me that with imperfect recollection, confusion is very likely.

37. While the case law tells me that I must take into account those members of the public who rarely have a chance to make a direct comparison between marks and instead must rely upon the imperfect picture of them kept in the mind (Lloyd Schufabrik Meyer & Co GmbH v Klijsen Handel B.V. paragraph 27), Mr Stacey, contended that in the present case I should not place too much weight on this proposition within the global comparisons, due to the nature of the goods in question and the way in which they are marketed.

38. In Mr Stacey's submission, the goods in suit e.g. food processors and food mixers, are a relatively sophisticated purchase made with due care and attention. He stated that the goods are sold side-by-side through the same outlets, that the prospective purchaser examines the goods closely for technical features and that the goods are primarily selected by the eye. On the other hand, Mr Chacksfield stressed that the respective goods were identical, with the exact same customer and in direct competition. Mr Chacksfield also stressed that goods of this nature (moderately expensive and labour saving) were often bought as gifts or following oral recommendation and thus, the purchaser of the goods may not be the person familiar with the relevant mark, thereby exacerbating the inherent risk of confusion.

39. While there is no real direct evidence to support Mr Stacey's submissions that food processors and mixers etc. are primarily selected by the eye and constitute a relatively sophisticated purchase made with due care and attention, it seems to me that they possess some force and I will take them into account in my decision. On the other hand, as Mr Chacksfield points out, such goods are often bought following oral recommendation (when imperfect recollection is particularly relevant) and that in the present case we are dealing with identical goods in direct competition for the same customer.

40. On a global appreciation, taking into account the relevant factors, I come to the following conclusions on the Section 5(2) ground:-

(i) The respective marks are visually and aurally similar (particularly when imperfect recollection is taken into account) and that the conceptual differences are not significant.

(ii) The respective specifications of goods cover the same and similar goods

(iii) While the customer is likely to be relatively discerning and sophisticated and is likely to purchase through selection by the eye, there remains a likelihood of confusion given the similarity in the marks and the identity of the goods, in that, when imperfect recollection is taken into account, customers will be unable to distinguish the origin of the goods through the respective marks.

41. The opposition under Section 5(2)(b) is successful.

42. As I have found for the opponent under Section 5(2) of the Act, I have no need to consider the grounds of opposition raised under Section 5(4)(a).

43. The opponents are entitled to a contribution towards costs and I therefore order the applicants to pay them the sum of £850. This sum is to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of the case if any appeal against this decision is unsuccessful.

**Dated this 6<sup>TH</sup> day of September 2001**

**J MACGILLIVRAY  
For the Registrar  
The Comptroller-General**

**ANNEX ONE**

| <b>REGISTRATION NUMBER</b> | <b>MARK</b> | <b>PROPRIETOR</b> | <b>DATE OF REGISTRATION</b> | <b>CLASS</b> | <b>GOODS</b>   |
|----------------------------|-------------|-------------------|-----------------------------|--------------|--|
| 1215670                    | MAGIMIX     | Magimix S.A.      | 28 March 1984               | 8            | Hand tools; hand instruments, cutlery, forks and spoons; all included in Class 8.  |
| 1462144                    | MAGIMIX     | Magimix S.A.      | 24 April 1991               | 11           | Apparatus for cooking, heating and refrigerating; electric cooking utensils; coffee machines and percolators; electrical filters; heating plates and dish warmers; ice machines and apparatus; parts and fittings for all the aforesaid goods; all included in Class 11. |
| 1462145                    | MAGIMIX     | Magimix S.A.      | 24 April 1991               | 21           | Household and kitchen utensils and containers; tableware and kitchenware; fruit presses; ice-cream freezers; parts and fittings for all the aforesaid goods; all included in Class 21.   |