

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NO 2167825
BY TONY KNIGHT
TO REGISTER A TRADE MARK IN CLASS 25**

AND

**IN THE MATTER OF OPPOSITION THERETO
UNDER NO 50544 BY PATROL JEANSWEAR LTD**

TRADE MARKS ACT 1994

**IN THE MATTER OF Application No 2167825
by Tony Knight to register a Trade Mark in Class 25**

and

**IN THE MATTER OF Opposition thereto
under No 50544 by Patrol Jeanswear Ltd**

BACKGROUND

1. On the 23rd May 1998, Tony Knight (“the applicant”) applied to register a trade mark under application No 2167825 in Class 25. The mark in question is **TK.PATROL**, presented in plain capital letters.
2. The application was accepted and published in Trade Marks Journal No 6295 page 12097 on the 22nd September 1999 for a specification reading “Fashion clothing, footwear and headgear”.
3. On the 21st December 1999, Patrol Jeanswear Ltd (“the opponent”) filed a notice of opposition, accompanied by a Statement of Grounds for the opposition in the following terms:

- “1. Opponent is registered proprietor of trade mark registration No 1438438 advertised in *Trade Marks Journal* 5892, p. 05602 - [WORLD PATROL]
2. Opponent own right in the trade mark PATROL (herein below “The Trade Mark”), the subject of lapsed application 1442286 in the name Laurence John Weir, and a pending application for registration filed December 16, 1999 in its own name. Mr Weir is a director and shareholder of Patrol Jeanswear Ltd.
3. The opponent has used the trade mark extensively in the United Kingdom in relation to the conduct of its business and on jeanswear. As a consequence of such use, the opponent claims to have a reputation therein within the meaning of Section 5(3) of the Trade Marks Act 1994 and also, insofar as such use has occurred on goods/services for which the trade mark is not registered, to have acquired rights through such use sufficient to prevent others from using the same or a similar mark under the common law of “passing-off”.
4. The mark applied for is confusingly similar to the opponent’s earlier rights, in connection with the trade mark.
 - it is a “Patrol” mark with added matter which does not effectively distinguish it from the trade mark.

- the added matter “TK” is the initial of the applicant, suggesting that the mark applied for is “TK’s PATROL” trade mark thus emphasizing that the mark as such is “PATROL”.
5. The mark applied for is in respect of goods/services which are identical or similar to those covered by the opponent’s earlier right in the trade mark. The goods of the application include “fashion clothing”. The field of trading of the opponent is “jeanswear”. Jeanswear is fashion clothing.
 6. As a consequence, registration of the mark applied for would be contrary to the provisions of Section 5(2) of the Trade Marks Act 1994, in that it is similar to opponent’s trade marks PATROL and WORLD PATROL and is proposed to be registered for goods/services identical or similar to goods/services for which opponent’s trade mark is registered, such that there exists a likelihood of confusion on the part of the public, including a likelihood of association with the earlier trade marks of the opponent. Further, or alternatively, registration of the trade mark applied for would be contrary to the provisions of Section 5(3) of the Trade Marks Act 1994, in that the opponent enjoys a reputation in the United Kingdom in its earlier trade marks PATROL and WORLD PATROL which is identical or similar to the trade mark applied for under No 2167825 and the use of the trade mark applied for, without good cause, would take unfair advantage of or be detrimental to the distinctive character or repute of the opponent’s earlier trade marks.
 7. Further, or alternatively, registration of the trade mark applied for would be contrary to the provisions of Section 5(4) of the Trade Marks Act 1994, in that use of the applicant’s trade mark is liable to be prevented under the law of passing-off in view of the opponent’s established reputation and use of trade marks PATROL and WORLD PATROL and consequent goodwill therein.
 8. Opponent requests that application No 2167825 should be refused. Time has not permitted an approach to applicant before the end of the inextensible opposition period. Resort to British Telecom directory enquiries proved fruitless. Should applicant resist this opposition, opponent requests that an award of costs be made against the applicants in these proceedings, in respect of the evidence phase, and thereafter.”

4. On the 12th January 2000, the applicant filed a form of counterstatement and counterstatement in the following terms:

- “1. Application for registration of the trade mark “TK PATROL” was made by the applicant initially in or about May 1998. After some delay the mark was accepted for registration and advertised in Journal No 6095, page 12097, in the name of the applicant Tony Knight, a sole trader.
2. The applicant has traded using the device “TK PATROL” in the United Kingdom since early 1997 and was not, until opposition was filed, aware of the existence of the opponents, its existing mark “WORLD PATROL”, nor of the lapsed application for the mark “PATROL”.

3. Whilst admitting the existence of the opponent's existing mark and pending application, the applicant makes no admission as to the validity of them or their relevance to the application.
4. The applicant will deny that his mark is confusingly similar to the opponent's mark. The added initials "TK" specifically refer to the applicant, and are designed to and do associate the product and mark with him, and with him alone.
5. The opposition in paragraph 4 is not accepted; the fact that it is suggested by the opponent that the mark applied for is, effectively, "TK's PATROL", that is to say, the mark PATROL associated with and created by Tony Knight, is precisely what distinguishes the said mark from that of the opponent.
6. There can be no question of confusion or passing off. There is no reason to suppose any association of the initials "TK" with the opponent. Further, the applicant has traded using the mark since early 1997 with no question of confusion or passing off ever having arisen.
7. The opponent has no prior or superior right to the mark "PATROL" than that of the applicant. In the circumstances, the registration of the mark applied for would not be contrary to Section 5 of the Trade Marks Act 1994, whether as alleged by the opponent or at all.
8. The registration of the mark applied for, in the circumstances described, would not interfere in the legitimate conduct of the opponent's business. In support of such contention the applicant will rely on the unhindered and unchallenged previous trading activity.
9. The applicant denies the statements made by the opponent in paragraphs 3 to 7 of the Statement of Grounds of opposition.
10. The applicant would ask that the opposition be dismissed and that an award for costs be made in the applicant's favour".

OPPONENT'S EVIDENCE

5. This consisted of three witness statements, namely those of Eric Musgrove, Laurence John Weir and Alan Mitchell.

6. **Eric Musgrove** says in his witness statement of 12th July 2000:

- a. he is Editor-in-Chief at EMAP Fashion, which publishes the magazines "Drapers Record", "Menswear" and "fw" (formerly "Fashion Weekly"). He says they are the leading United Kingdom clothing trade magazines.
- b. he has worked as editor on the above and similar magazines since 1980.

- c. the opponent and its Director Laurence John Weir are well known to him as part of his job. The opponent is well known in the jeanswear business as a company which supplies goods to retailers. The opponent has been well known for some years, certainly long before May 1998.
- d. his first acquaintance with the opponent was when it was formed in 1990.
- e. the word “jeanswear” is wholly descriptive of a particular and distinctive category of clothing, namely, informal clothing made primarily from denim cloth. The term does not exclude “designer” or “haute couture” clothing. On the contrary, it has been common for some years for jeans sold under high fashion brands to be described as “designer jeans”.
- f. in the context of the specific category of clothing known as jeanswear, he says he knows and believes that the word “PATROL” had come, by May 1998, to have acquired a specific meaning, namely, jeanswear associated with the opponent.

7. Laurence John Weir says in his witness statement dated 10th July 2000:

- (a) He is an Executive Director of the opponent and has been since 1st October 1990.
- (b) The opponent is a “compact business”, with offices in St Albans, Preston and previously Glasgow (in the United Kingdom) and in Morocco It employs less than 50 people.
- (c) The opponent procures supplies of jeanswear for retail outlets within the UK . Its customers are trade customers.
- (d) Much of the turnover of the opponent is in jeanswear which carries only the brands of the customer/retailer, but a proportion of the turnover is in jeanswear labelled with the opponents brand, namely “PATROL” or “WORLD PATROL”.
- (e) Exhibit LJW 1 is a typical invoice (dated 13 January 1995) of the opponent to one of its trade customers.
- (f) The turnover figures for jeanswear to customers in each of the last seven years is:

1993	£ 6,871,074
1994	£ 8,716,894
1995	£10,406,200
1996	£12,597,568

1997	£11,561,492
1998	£12,207,496
1999	£12,009,905

- (g) The name PATROL JEANSWEAR is featured prominently in the opponent's business correspondence. The word PATROL is given extra emphasis by the use of a device like a feathered wing on the "O" of PATROL
- (h) From time to time the opponent makes a contract with a retailer/customer to supply jeanswear for retail sale which carries one of the opponent's brands. Exhibits LJW 2 and LJW 3 are two back pocket labels for attachment to jeans for retail sale.
- (i) Although jeanswear had its origin in working clothing, it now has a broader appeal. "High fashion" clothing and "jeanswear" are not naturally exclusive designations. The term "designer jeans" is now familiar and he uses the example of the fashion house "Armani" developing its own brand "Armani Jeans".
- (j) The exhibits LJW 4 is a copy of the application Form TRADE MARK 2 dated 24th September 1990 for the mark PATROL. The application failed because of a citation of an earlier trade mark, No 1313958 - BEACH PATROL (which is no longer extant - see the reference to exhibit AM 7 to Mr Mitchell's witness statement below).
- (k) Exhibit LJW 5 is a print out from the Register of UK registration No 1438438 for the opponent's mark WORLD PATROL.
- (l) He says the mark has been in continuous use in the UK in the course of trade in jeanswear, since 1990, but it is ambiguous as to whether this reference is to the mark WORLD PATROL, PATROL (word alone) or the mark mentioned below at paragraph 8.

8. Mr Weir also makes reference to UK trade mark application No 2217440 (PATROL and deice) in the name of the opponent, but as this application was dated 16 December 1999 and post dates the application being opposed, this application has no direct bearing on these proceedings

9. The final Witness Statement was that of **Alan Mitchell**, a chartered British Patent Attorney with the firm of Hoffmann Eitle. At his exhibit AM 1 he shows the results of a search he conducted for his clients (the opponent) of the United Kingdom trade mark register on 12 July 2000. Four trade marks which resulted from the search of Class 25, for marks starting with the word PATROL. Three of them (including application No 2217440 by the opponent's referred to above in the witness statement of Mr Weir) post-date the material date in these proceedings of 23rd May 1998. The fourth was refused by the registrar prior to that material date. Exhibits AM 1 to AM 6 verify the status of the four marks found in the search. All of this evidence is irrelevant to the current proceedings.

10. Exhibit AM 7 verifies the statement of Mr Weir that UK trade mark registration 1313958 (which was the cause of the failure of the opponent's application of 24 September 1990 for the mark PATROL in Class 25) for the mark BEACH PATROL, is indeed no longer extant.

11. Finally, Mr Mitchell states that it is his belief that this evidence shows that there is nothing to conflict with the opponent's and its witness that the trade mark "PATROL" has acquired a secondary meaning in the field of jeanswear, namely jeanswear emanating from the opponent.

APPLICANT'S EVIDENCE

12. During the course of the statutory evidence grounds, the applicant, on the 25th October 2000, submitted his evidence in chief to the Registrar. However, this was not copied to the opponent in compliance with Rule 13(9) of the Trade Mark Rules 2000, and was ultimately not allowed in to the proceedings by the Registrar. The Registrar was notified by Messrs Hoffmann Eitle (representing the opponent) on three occasions (in November 2000, December 2000 and January 2001) that the applicant's evidence had not been copied to the opponent. The Registrar reminded the applicant of this and of the requirement to do so under Rule 13(9), in November 2000 and again in January 2001. There was no response from the applicant at all, and on 10 February 2001, the Registrar wrote again to the applicant notifying him that his evidence will therefore not be admitted into the proceedings and that the case will now continue on the basis of the opponent's evidence alone. There was again no response to this letter.

13. Neither party has requested an oral hearing in these proceedings and therefore after a careful study of all the papers, I give this decision.

THE DECISION

14. The grounds of opposition were pleaded as Sections 5(2), 5(3) and Section 5(4). I shall deal with each in turn.

15. As far as Section 5(2) is concerned, I take the pleading to refer specifically to Section 5(2)(b) of the Act, as Section 5(2)(a) (as can be seen from the wording below) refers to "identical" earlier trade marks, and that is clearly not the case here. Section 5(2) states:

"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."

16. An earlier right is defined under Section 6 of the Act, the relevant part of which states:

"6.-(1) *In this Act an "earlier trade mark" means -*

- (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;*
- (b)
- (c)

(2) *References in this Act to an earlier trade mark include a trade mark in respect of which an application for registration has been made and which, if registered, would be an earlier trade mark by virtue of subsection (1)(a) or (b), subject to its being so registered.*

(3) *A trade mark within subsection (1)(a) or (b) whose registration expires shall continue to be taken into account in determining the registrability of a later mark for a period of one year after the expiry unless the registrar is satisfied that there was no **bona fide** use of the mark during the two years immediately preceding the expiry."*

17. In deciding this case, 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.

18. 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.

19. The marks at issue in the consideration of the Section 5(2)(b) ground are the application under opposition (TK PATROL) and the only mark of the opponent which satisfies the above definition of an “earlier trade mark” under Section 6(1) of the Act and which have been brought before me in these proceedings (see LJW 5) namely UK registration No 1438438 (WORLD PATROL). Both marks are presented in plain capital letters and are in Class 25, but for differently worded specifications of goods. These are:

- **TK.PATROL** (2167825) Class 25" - Fashion clothing, footwear and headgear.
- **WORLD PATROL** (1438438) Class 25" - Articles of outer clothing; jeans, jackets, T-shirts, shirts, sweat shirts, all being article of outer-clothing for ladies and men; all included in Class 25.

20. The opponent has made assertion in its evidence (see paragraphs 6(e) and 7(i) above) about “jeanswear” being “fashion clothing”. The applicant has not disputed these assertions. It seems to me perfectly reasonable, given the potential breadth of the term “fashion clothing” in the application under opposition and the width of the opponent’s registered specification beyond just the “jeanswear” most at issue in these proceedings, to conclude that the goods in suit are “identical” goods within the meaning of Section 5(2)(b) of the Act. To all intents and purposes then, the issue of a likelihood of confusion, rests on a comparison of the marks.

21. It can be seen from the recent guidance outlined above, that the test to decide whether these two trade marks are likely to cause confusion to the public boils down to a comparison of the marks, bearing in mind all the relevant considerations in a global appreciation of the question. I should also bear in mind the doctrine of “fair and notional use” of the marks on the goods that they cover (see *Origins Natural Resources Inc v Origin Clothing Limited* [1995] FSR 280 and the comments of Simon Thorley QC acting as the Appointed Person in *React Trade Mark* [2000] RPC 288).

22. It is well established that a comparison of the marks in order to assess the degree of similarity between them, should determine the degree of **visual, aural and conceptual** similarity between them. In addition, it should, where appropriate, evaluate the relative importance to be attached to each of those elements, taking into account the category of goods (in this case) involved and the circumstances in which they are marketed.

23. Dealing with the visual first, the two marks in question are both presented in plain block capitals. There is an inference in the evidence of the opponents that I should consider their mark WORLD PATROL, as presented with a device of “feathered wing in the “O” of PATROL (as exhibited at LJW 2), because this gives added emphasis to the word PATROL, but this cannot be right. The mark is registered as plain words and in applying notional and fair considerations of the use of the mark, I must regard it purely in that way.

24. Clearly then visually there are differences. The first element of both marks, which is often considered to be the most important one, obviously differs. One mark starts with the letters TK. The other with the word WORLD. However, one must also say, as well as the obvious difference in the marks, there is also an evident shared common element - the word PATROL. While one may argue that the first part of a word mark is often the most important, the counter-argument is that in this case the second elements are as prominent (at least in terms of the relative space they occupy in each mark) and therefore the similarities are as great as the differences..

25. The important question is whether the evident differences in the two marks is sufficient to distinguish them in the normal purchasing circumstances of the goods in question? In this case, there are two significant purchasing environments - or “average consumers” - trade customers and the general public

26. The evidence from Mr Weir states that the opponent “procures supplies of jeanswear for retail outlets within the United Kingdom. Thus, its customers are trade customers”. Clearly, however, goods carrying the WORLD PATROL mark make their way to the general public via the retail customers of the opponent. Any fair and notional consideration of the marks on the goods in question, must bear this in mind.

27. As far as the opponent’s trade customers are concerned, I have no evidence before me as to whether visual comparisons in the clothing trade are significantly more important than say, word of mouth. Taking the best view that I can, I would think that both play some role, but I cannot assess which is the more significant. As far as retailing to the general public is concerned though, I am greatly assisted by the comments of Simon Thorley QC acting as the Appointed Person in *React Trade Mark* [2000] RPC 288 when he concurred with the earlier

findings of the Registrars Hearing Officer by saying in relation to the purchasing of clothing in particular:

“The Hearing Officer was prepared of his own experience to hold that the initial selection of goods would be made by eye, and I believe this is correct. I must therefore bear in mind the fact that the primary use of trade marks in the purchasing of clothes is a visual act.”

28. I have no evidence from the applicant as to the particular purchasing conditions for the goods covered by his application for the mark TK.PATROL. In any event, neither of the two specifications of goods covering each mark is limited in any way as to restrict the purchasing conditions, so I must assume the potential for a full range of marketing circumstances. Visually then, on balance, I am inclined to say that the marks are similar, purely by the visual force of the shared word PATROL.

29. Clearly the aural similarities/differences are the same as under the visual comparison above and my conclusions are bound to be the same.

30. Both the visual and aural considerations will be, to my mind, informed or influenced to some degree by the conceptual impact of the marks. Both marks share the ordinary dictionary word PATROL. This is a perfectly common word which will certainly be understood by the “average consumer”. Without the need to consult a dictionary, its first impression to me says something about policemen on the beat or a law enforcing unit of some description. This concept must be attributable to the word in both marks in suit. In TK.PATROL, however, does the TK. element add to or alter that concept? I do not believe it does. The TK. element can only be seen as one thing and that is as letters TK. There is some suggestion in the Statement of Grounds of the opponent’s that the occurrence of TK in the mark reinforces the PATROL element by bestowing upon it a possessive context (ie TK’s PATROL - a PATROL mark owned by TK), but I place no weight on this argument. Equally, I dismiss the applicant’s arguments in his counter-statement which suggest the TK element associate the products and mark with him (he is called **T**ony **K**night) and it is this which distinguishes the mark from that of the opponent’s. Without evidence to support the applicant’s inference to some sort of reputation in the letters TK, I believe the TK element will only be seen as letters, with no particular meaning attributable to them in the context of the goods in question or certainly not in distinguishing the applicant.

31. One must also ask whether the word WORLD significantly alters the conceptual context of the mark WORLD PATROL. To my mind it does not. It qualifies the PATROL element as being on a wider, worldwide level and may bring to mind some vague connection to worldwide law or peace enforcing organisations (eg such as the United Nations or NATO), but to conjecture that that would be a major distinguishing factor in the mind of the average consumer for jeanswear or clothing, would be to take the argument to unsubstantiated conclusions. To my mind, the word WORLD does not alter the primary meaning of the mark, which relies on the concept created by the word PATROL. The overall impressions created by the marks in question here, bearing in mind their distinctive and dominant components, is informed by the strength and distinctiveness of the word PATROL.

32. I should add that from the guidance, it can be seen that it is said that 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. In this case it can be seen from my comments on the distinctiveness of the word PATROL and the effect on that of the word WORLD, that I must conclude the mark WORLD PATROL, for jeanswear, or indeed clothing in general, has a highly distinctive character by nature, and as such is entitled to a wide penumbra of protection. Even more so in the case (as here) where there is at least the potential for identical goods to be at issue.

33. Under visual, aural and conceptual considerations then, it can be seen from my assessments above, that I find that there are similarities between the marks in question and the result will be a likelihood of confusion, particularly taking on board the imperfect recollection of the average consumer. I do not necessarily say that there is a likelihood of *direct confusion* in the sense that one mark will be mistaken for the other - there are clear differences, as I have pointed out - however, I do consider that there will be likelihood of association in the minds of the public between the two marks in question which will cause potential purchasers of the goods sold under those marks, to erroneously believe that the respective goods come from the same or economically linked undertakings. That, as can be seen from the guidance *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, at paragraph 29, is sufficient to find a likelihood of confusion under the terms of the Act. As such, the opposition under the Section 5(2)(b) ground succeeds.

34. As the opponent's have been successful in what I regard as their primary ground under section 5(2)(b) of the Act, I will look only very briefly at the other two pleaded grounds under Section 5(3) and 5(4).

Section 5(3)

35. This states:

5.-(3) A trade mark which -

- (a) is identical with or similar to an earlier trade mark, and*
- (b) is to be registered for goods or services which are not similar to those for which the earlier trade mark is protected,*

shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the United Kingdom (or, in the case of a Community trade mark, in the European Community) and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark.

36. As I have already found that the goods in question between the two marks are identical or at least similar, there is no basis for the pleading, so the ground founders there.

Section 5(4)

37. As pleaded, this ground goes specifically to Section 5(4)(a) of the Act. This states:

5 - (4) A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented -

(a) *by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, or*

(b)

A person thus entitled to prevent the use of a trade mark is referred to in this Act as the proprietor of an “earlier right” in relation to the trade mark.

38.. The opponent has succeeded under its primary ground of Section 5(2)(b) and assessing the evidence carefully, I find has no stronger case under this ground, so I need consider it no further.

39. The opponent is entitled to a contribution towards its costs. I order the applicant to pay the opponents the sum of £ 535.00. This sum is to be paid within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 28th Day of November 2001

**G J Rose’Meyer
For the Registrar
the Comptroller-General**