

**TRADE MARKS ACT 1994**  
**IN THE MATTER OF AN APPLICATION**  
**UNDER NUMBER 11751**  
**BY SILVERSTONE HAYMARKET LIMITED**  
**FOR REVOCATION OF TRADE MARK NUMBER 1336102**  
**IN THE NAME OF INTERCHANGE AND CONSORT HOTELS LIMITED**

## **TRADE MARKS ACT 1994**

**IN THE MATTER OF AN Application under Number 11751  
by Silverstone Haymarket Limited  
for Revocation of Trade Mark Number 1336102  
in the name of Interchange and Consort Hotels Limited**

### **BACKGROUND**

1. Trade mark registration number 1336102 is in respect of the mark FIRST PLACE and is registered in Class 42 for a specification of:-

"Organising and arranging meetings and conferences; all included in Class 42."

2. The mark was registered on 20 July 1990 with registration effective from 19 February 1988. The registration stands in the name of Interchange & Consort Hotels Limited.

3. By an application dated 13 July 2000 Silverstone Haymarket Limited applied for the registration to be revoked under Section 46(1)(b) of the Act on the ground that:-

"Within the period of five years immediately preceding the date of this application the mark the subject of registration 1336102 has not been put to genuine use in the United Kingdom by the proprietor or with his consent in relation to the following services:

"Organising and arranging corporate hospitality meetings at sporting and cultural events; organising and arranging rally driving meetings; organising and arranging meetings for the purpose of sailing or power boating; organising and arranging outdoor meetings for corporate hospitality."

There are no proper reasons for non-use of the mark in respect of the services specified ..... above."

4. The registered proprietors filed a counterstatement denying the assertions made in the application and stating their intention to defend the full range of services covered by the registration. Both the applicants for registration and the registered proprietors ask for an award of costs in their favour.

5. The registered proprietor filed evidence under Rule 31(2). Neither side requested a hearing but both parties filed written submissions to be taken into account in the decision.

### **Registered Proprietor's Evidence**

6. The registered proprietor's evidence consists of two statutory declarations, dated 23 November 2000 and 15 January 2001, by Michael Arthur Lynd. Mr Lynd is a Chartered

Patent Agent and a Registered Trade Mark Attorney who is a partner in the firm of Edward Evans & Co., the registered proprietor's professional representatives.

7. Mr Lynd states that the registered proprietor (then called Interchange Hotels of Great Britain Ltd) first commenced use of the trade mark FIRST PLACE in the UK in 1989 and has continuously used the mark in the UK since that date in relation to the organising and arranging of meetings and conferences.

8. Mr Lynd goes on to state that the approximate value of the services provided by the registered proprietor in the UK under and by reference to the FIRST PLACE trade mark have been as follows:-

<b>1989</b>	£200k est.	<b>1995</b>	£2.39m
<b>1990</b>	£200k est.	<b>1996</b>	£3.62m
<b>1991</b>	£300k est.	<b>1997</b>	£5.76m
<b>1992</b>	£500k est.	<b>1998</b>	£6.8m
<b>1993</b>	£838k	<b>1999</b>	£10.2m
<b>1994</b>	£1.98m	<b>2000</b>	£11.0 est.

and he adds that the approximate annual amount spent on advertising and promoting the services offered in the United Kingdom under and by reference to the FIRST PLACE trade mark since its adoption has been as follows:

<b>1998</b>	£10k est.	<b>1995</b>	£28k
<b>1990</b>	£10k est.	<b>1996</b>	£30k
<b>1991</b>	£20k est.	<b>1997</b>	£30k
<b>1992</b>	£20k est.	<b>1998</b>	£30k
<b>1993</b>	£20k est.	<b>1999</b>	£42k
<b>1994</b>	£20k est.	<b>2000</b>	£56k

9. Next, Mr Lynd refers to Exhibit MAL 1 to his declaration which comprises copies of annual directories produced by the registered proprietor for the years 1995-96, 1996-97, 1998-99, 1999-2000 and 2000-2001. Each of these directories bears the trade mark FIRST PLACE on its cover and with the exception of 1995/96, contains the description "Conference and meetings UK directory" on the front cover.

10. Mr Lynd goes on to a consideration of the directories and he states:-

"Examining one of these catalogues more or less at random, I refer to the "Conference & Meetings UK Directory" for the year 1997/1998. I observe that the trade mark FIRST PLACE features prominently on the cover of this directory and I refer to pages 3 to 5 of the directory. On page 2, there is a reference to "*GOLF & LEISURE - over 70 hotels with fabulous leisure facilities and many with golf courses*" and to "*ACTIVITY BREAKS - ranging from ballooning to murder mysteries*". On page 4, it is stated "*Best Western Hotels has a superb choice of health and leisure facilities across the country. Many hotels have indoor swimming pools where you can relax and unwind. For the more active, you'll also find hotels with squash, tennis and fully*

*equipped gymnasiums". On the same page are listed no less than thirteen hotels with golf course. On page 5 of the directory, it is stated "So, Relax and Unwind". Do you fancy an invigorating dip in a heated indoor pool? Best Western has some of the best facilities in the country, offering conference delegates the chance for refreshment and relaxation. There are over 70 hotels with heated pools - a great choice and just the job after a busy day"* It is further stated on the same page *"There's a great choice of other activities at Best Western hotels, including tennis, ballooning, quad biking, archery, waterskiing, windsurfing, and much more. Our conference offices will be glad to help you with your choice."* The illustrations on page 5 include pictures of swimming pools in hotels, a picture of hot air balloons and a picture of persons fishing. The remainder of the directory consists of a listing of hotels and of the facilities afforded by each hotel. On every page of the directory, it is stated *"Whatever your meeting and conference needs, call your nearest FIRST PLACE OFFICE listed at the foot of this page";* and, at the bottom of each page there is telephone information identified as "FIRST PLACE INFORMATION & RESERVATIONS". I refer, for example, to page 48 of this directory wherein there is a description of the St David's Park Hotel & Golf Club". On page 51, there is a description of Five Lakes Hotel, Golf & Country Club, and it is stated that Five Lakes has eighteen function rooms, an exhibition hall and extensive sporting, leisure and health facilities, including two golf course. On page 70, there is a discussion of The Hythe Imperial and it is stated *"It provides excellent food in an award-winning restaurant, friendly service and extensive leisure facilities including a 9 hole golf course, indoor pool, squash, tennis, sauna, steam room and solarium. Team building events or fun leisure competitions can be organised either at the corporate entertainment facility, Marston Woods, or within the hotel grounds."* Under the sub-heading "Health & Leisure", there are listed "Indoor pool/spa, sauna, steam room, gym, golf, putting, tennis, squash, croquet, beauty treatments, health assessments" and "Marston Woods - quad bikes, all terrain buggies, clay-pigeon shooting and team-building events at our own 100 acre wood only 20 minutes drive away". There are further references to Marston Woods and the activities which can be organised there on page 71 of the directory. Page 74 describes Ufford Park Hotel, Golf \* Leisure, and it is stated that the leisure facilities include an 18 hole golf course and extensive leisure club with indoor pool, sauna and solarium. Page 75 describes the Castletown Golf Links Hotel which is stated to be superbly located on the Langness Peninsula with sea views on every side and to be famous for its challenging 18 hole championship golf course. Page 81 describes the Arundel Arms Hotel, and it is stated *"The hotel is a must for fishermen as there are 20 miles of private fly fishing in rivers and the lake. Golf, shooting and riding are available nearby"*. On page 85, there is a description of the Talbot Hotel, Leominster, and it is stated, *"Leisure activities such as golf, clay-pigeon shooting, fishing and paragliding can be arranged locally"*. On page 93, there is a discussion of the The Smoke House and it is stated, *"Golf, fishing and shooting can be arranged"*. On page 99, there is a discussion of Sprowston Manor Hotel, which is said to have extensive leisure and conference facilities and to be surrounded by an 18 hole golf course and ten acres of park land. It is stated that fishing and shooting can be arranged for sports enthusiasts. Page 100 discusses the Barnham Broom Hotel, which is stated to be East Anglia's premier hotel, golf, conference and leisure complex. On page 103, there is a description of the Sudbury House Hotel & Conference Centre, and it is stated,

*"Outdoor pursuits and team-building facilities are available within the grounds". On page 105, there is a description of the Glenridding Hotel where it is stated "All types of pursuits are available within walking distance and specialist instructors are on hand locally to offer team building and self development exercises". On page 137, there is a description of the Buckatree Hall Hotel and it is stated that "team building activities on techniques such as abseiling, raft building, war games, clay pigeon shooting etc" can be arranged. The discussion on page 148 of Low Wood Hotel states, "The Leisure Club has the very latest facilities including a 50ft pool, fitness studio, squash courts, sauna and beauty clinique. Our watersports and activity centre offers water skiing, canoeing, windsurfing, archery, etc. Private boat trips can also be arranged to depart from Low Wood's own jett". On page 149, the discussion of The Bell at Charlebury states, "Hot air ballooning or gliding can be arranged as well as shooting, golf, or fishing". The discussion on page 163 of Cartland Bridge Country House Hotel states "Golf can be arranged within five miles at a choice of local courses and clay pigeon shooting can also be arranged nearby". Page 164 contains a description of Dryburgh Abbey Hotel which is said to be the ideal base for shooting, fishing, golfing, exploring or simply relaxing. On page 165, the description of Malin Court states that the hotel overlooks the Isle of Arran and Turnberry's Open Championship golf course. It is stated "The flexible range of conference suites and facilities is supported by our expert team of staff to ensure the smooth running of your function or conference" and is illustrated by a picture of a room within the hotel prominently featuring a golf bag. The discussion on page 167 of Bron Eifion Country House Hotel states, "The gardens can cater for falconry and archery and there is clay pigeon shooting and golf nearby. Four wheel drive and quad bikes can be arranged". Finally, the discussion on page 175 of Ruthin Castle states, "Corporate challenges can be arranged on site including quad bikes, ballooning and shooting".*

11. Mr Lynd continues by stating that a regular and routine part of the services provided by the registered proprietor under the FIRST PLACE mark involves the organising and arranging of sporting activities and outdoor activities which can involve driving e.g. quad bikes, 4 x 4 off road driving and go-carting; also water activities including windsurfing, waterskiing and sailing. Pages 39, 72 and 80 of the 1997/98 directory refer.

12. Next Mr Lynd states that the registered proprietor regularly attends trade shows and exhibitions and he draws attention to Exhibit MAL 2 to his declaration which shows archive pictures of their stand at the annual Confex exhibition at Earls Court, London for the years 1994, 1997 and 1999. He observes that the trade mark FIRST PLACE is prominently displayed. Exhibit MAL 3 comprises promotional literature e.g. brochures, mail shots and guides, bearing the FIRST PLACE mark.

13. Mr Lynd concludes that the registered proprietor has an extensive business in arranging meetings and conferences which can be for myriad purposes and may include hospitality events, recreational meetings, outdoor meetings or business training or seminars.

14. The second statutory declaration of Mr Lynd relates to the relationship of the registered proprietor with Best Western Hotels whose trade mark and company name is shown on many of the exhibits attached to Mr Lynd's first statutory declaration. Mr Lynd explains that "Best

Western Hotels" is the international trading name of Interchange and Consort Hotels Limited (the registered proprietor) who are an affiliate of Best Western International Inc. and that use of BEST WESTERN has been made with the permission of the registered proprietors of that registration, Best Western International Inc.

## **APPLICANT'S FOR REVOCATION WRITTEN SUBMISSIONS**

15. The applicants re-iterate the specification of the registration in suit and those specific services to which the application for revocation is directed and state that in the absence of proof that the trade mark FIRST PLACE has been put to genuine use upon such services the registration should be revoked in accordance with Section 46(1)(b). They go on to submit that partial revocation is requested in respect of the services specified. This goes to Section 46(5) of the Act.

16. In the applicant's view the evidence of use submitted on behalf of the registered proprietor does not constitute proof of use of the registered trade mark in respect of the specific services at which the application for revocation is directed. They make this submission for the following reasons:-

"(a) No evidence has been adduced in the form of invoices for any of the above services provided under the trade mark FIRST PLACE.

(b) The Annual Directories exhibited at MAL 1 to the Statutory Declaration of Michael Arthur Lynd dated 23<sup>rd</sup> November 2000 suggest on their front pages that the actual service provided under the trade mark is a "free venue sourcing service", it would seem for the sourcing in a specific geographical location of suitable hotel venues for conferences and meetings.

(c) It is observed for individual hotel entries included in Exhibit MAL 1 as referred to in (b) above that the trade mark FIRST PLACE (usually in close proximity to the trade mark BEST WESTERN, whilst those words often form an integral part of the FIRST PLACE trade mark itself) is used in respect of meeting and conference facilities provided at these individual hotels. Specific details are given of various conference/function rooms within these hotels and facilities within those rooms such as flip charts, overhead projectors, TVs, videos, black/whiteboards, etc. It is submitted that health and leisure facilities are mentioned in these entries merely as additional facilities of the individual BEST WESTERN hotels where meetings and conferences might be booked, just as restaurants, bars, parking and indeed the accommodation itself are mentioned. It is therefore submitted that the specific service provided under the Registered Proprietor's FIRST PLACE trade mark is no more than a "free venue sourcing service", i.e. the location of a Best Western hotel in a specific geographical area which has suites for conventional indoor meetings and conferences. Such hotels might or might not have additional leisure and pleasure facilities available to all of their guests, including meeting/conference delegates, but it is submitted that these subsidiary services are likely to be seen by customers to be provided under the BEST WESTERN as opposed to the FIRST PLACE trade mark.

(d) It is submitted that no evidence has been adduced of, in particular, the organising and arranging of corporate hospitality meetings at sporting and cultural events. This type of service might include, for example, the cordoning off of areas for corporate hospitality at events such as the British Grand Prix, Badminton Horse Trails, Royal Ascot or Wimbledon. Recreational facilities provided by the Registered Proprietor would largely appear to be at Best Western venues and, as a facility of an individual hotel, seem likely to be seen as provided under the BEST WESTERN trade mark if any trade mark at all and not FIRST PLACE. There would not appear to be any persuasive evidence that the registered trade mark is (i) used in relation to, or (ii) used as a badge of origin of, the services at which this application for revocation is directed."

17. The applicant's submissions conclude by stating that in the evidence provided by the registered proprietor the trade mark FIRST place is usually used in close proximity to the trade mark BEST WESTERN and those words often form an integral part of the FIRST PLACE trade mark itself. They submit that this does not amount to genuine use of the mark in its registered form or, under Section 46(2), use of the trade mark in a form differing in elements which do not alter the distinctive character of the trade mark in the form in which it was registered.

#### **REGISTERED PROPRIETOR'S WRITTEN SUBMISSIONS**

18. The registered proprietors state that it is clear from the evidence submitted that the registration in suit has been continuously in use during the relevant five year period and that such use is genuine. They submit that the evidence demonstrates use on all the relevant services and make detailed reference to the Conference & Meetings UK Directories exhibited with Mr Lynd's statutory declaration of 23 November 2000.

19. This completes my summary of the evidence filed and submissions received in relation to these proceedings. I now turn to the decision.

#### **DECISION**

20. Section 46 of the Act states:-

"46.-(1) The registration of a trade mark may be revoked on any of the following grounds-

- (a) that within the period of five years following the date of completion of the registration procedure it has not been put to genuine use in the United Kingdom, by the proprietor or with his consent, in relation to the goods or services for which it is registered, and there are no proper reasons for non-use;
- (b) that such use has been suspended for an uninterrupted period of five years, and there are no proper reasons for non-use;

- (c) that, in consequence of acts or inactivity of the proprietor, it has become the common name in the trade for a product or service for which it is registered;
- (d) that in consequence of the use made of it by the proprietor or with his consent in relation to the goods or services for which it is registered, it is liable to mislead the public, particularly as to the nature, quality or geographical origin of those goods or services.

(2) For the purposes of subsection (1) use of a trade mark includes use in a form differing in elements which do not alter the distinctive character of the mark in the form in which it was registered, and use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.

(3) The registration of a trade mark shall not be revoked on the ground mentioned in subsection (1)(a) or (b) if such use as is referred to in that paragraph is commenced or resumed after the expiry of the five year period and before the application for revocation is made:

Provided that, any such commencement or resumption of use after the expiry of the five year period but within the period of three months before the making of the application shall be disregarded unless preparations for the commencement or resumption began before the proprietor became aware that the application might be made.

(4) An application for revocation may be made by any person, and may be made either to the registrar or to the court, except that-

- (a) if proceedings concerning the trade mark in question are pending in the court, the application must be made to the court; and
- (b) if in any case the application is made to the registrar, he may at any stage of the proceedings refer to the application to the court.

(5) Where grounds for revocation exist in respect of only some of the goods or services for which the trade mark is registered, revocation shall relate to those goods or services only.

(6) Where the registration of a trade mark is revoked to any extent, the rights of the proprietor shall be deemed to have ceased to that extent as from-

- (a) the date of the application for revocation, or
- (b) if the registrar or court is satisfied that the grounds for revocation existed at an earlier date, that date."



21. In addition Section 100 of the Act is relevant. It reads:

"100. If in any civil proceedings under this Act a question arises as to the use to which a registered trade mark has been put, it is for the proprietor to show what use has been made of it."

22. The applicant's ground of attack goes to Section 46(1)(b) of the Act and the relevant uninterrupted period of five years non-use is claimed to be the five years prior to the making of the application for revocation ie. the five years prior to 13 July 2000. Once this application was made, the effect of Section 100 was to place the onus on the registered proprietor to show the extent and nature of the use made by them of the mark; as noted by Mr Clarke QC. sittings as the Appointed Person in *Crysotheroque Zolotas* (0/464/99) and *Floris* (0/465/99).

23. The registered proprietor submits that the evidence filed in Mr Lynd's declarations and the exhibits attached thereto is sufficient to discharge the onus of showing the extent and nature of use and has showed substantial use during the relevant period.

24. The registered proprietor is required to show genuine use of the mark within the relevant period if the registration is to be defended successfully (there being no claim that there are proper reasons for non-use). In the following passage from *Euromarket Designs Incorporated v Peters* and another [2000] ETMR 1025 (The *Crate & Barrel* Case), Jacob J considered the question - what is meant by genuine use?:-

"Assume, however there were these three things, namely the packaging on a few items posted at the US customers request to the UK, gift registry sales, and a tiny amount of spillover advertisements in what the reader in the UK would know are US journals. Do they individually or collectively amount to "genuine use" of the UK registered mark? Miss Vitoria contends they do. She says the reference to "genuine use" of the UK registered mark? Mis Vitoria contends they do. She says the reference to "genuine" is merely in contradistinction to "sham". Small though the use may have been, there was nothing fake about it. The mark appeared in the UK in connection with genuine transactions and that is enough.

I disagree. It seems to me that "genuine use" must involve that which a trader or consumer would regard as a real or genuine trade in this country. This involves quantity as well as the nature of the use. In part it is a question of degree and there may be cases on the borderline. If that were not so, if Miss Vitoria were right, a single advertisement intended for local consumption in just one US city in a journal which happened to have a tiny UK distribution would be enough to save a trade mark monopoly in this country. Yet the advertisement would not be "sham." This to my mind shows that Miss Vitoria's gloss on the meaning of "genuine" is not enough. And the only stopping place after that is real trade in this country. I think all the examples relied upon are examples of trade just in the US."

25. Furthermore, in a recent decision of the High Court, *La Mer Technology Inc v Laboratories Goemar SA* (CH 2001 APP 01568/01569), dated 19 December 2001, Jacob J went on to express the following comments in relation to genuine use:-

"I take the view that provided there is nothing artificial about a transaction under a mark, then it will amount to "genuine" use. There is no lower limit of "negligible." However, the smaller the amount of use, the more carefully must it be proved, and the more important will it be for the trade mark owner to demonstrate that the use was not merely "colourable" or "token", that is to say done with the ulterior motive of validating the registration. Where the use is not actually on the goods or the packaging (for instance it is in advertisement) then one must further inquire whether that advertisement was really directed at customers here. For then the place of use is also called into question, as in *Euromarket*.

I think that formulation fits exactly with what I said in *Crate & Barrel*. As a matter of commerce small sales are nonetheless sales under and so uses the mark. The objective observing trader or consumer would so say. The absence of any purpose, other than trying to sell goods under the mark, would lead him to the conclusion that the uses were genuine.

Moreover there are real problems if one tries to formulate a *de minimis* rule. Does the amount of use depend on the size of the trade mark owner's enterprise? Does it matter whether he is relying upon use by importation rather than local sale? How little is too little? Does it matter whether the use is in the beginning, middle or end of the relevant period? And so on.

Nor do I think that the absence of a *de minimis* rule significantly affects the policy behind the legislation. Yes, marks must be used within the relevant period, but there seems no reason to make a trader who has actually made some small, but proper, use of his mark, lose it. Only if his use is in essence a pretence at trade should he do so. And of course, if he has only made limited use of his mark it is likely that the use will be only for a limited part of his specification of services. If he has a wider specification that can and should be cut back to just those goods for which he has made use. That would leave him with just a small umbra and a correspondingly reduced penumbra."

26. Where do the registered proprietors stand in light of the above? There evidence of use comes from the three exhibits attached to Mr Lynd's statutory declaration of 23 November 2000 - Exhibit MAL 1 which comprises copies of annual directories produced by the registered proprietor; Exhibit MAL 2 which consists of archive pictures of the proprietor's at Earls Court London; and Exhibit MAL 3 comprising promotional literature e.g. brochures, mail shots and guides.

27. The applicant for revocation attacks this evidence on a number of fronts. Firstly, I will deal with their allegation that as the mark FIRST PLACE is usually used in close proximity to the trade mark BEST WESTERN, and that those words often form an integral part of the FIRST PLACE trade mark itself ie. by appearing just above it as if to form a composite trade mark. In this regard, the applicants draw my attention to the provisions of Section 46(2) of the Act which requires use of the trade mark to be "in a form differing in elements which do not alter the distinctive character of the mark in the form in which it is registered".

28. Having examined the registered proprietors evidence it seems to me that the directories at "Exhibit MAL 1" on their cover, show the words FIRST PLACE under the words BEST WESTERN. However, the words FIRST PLACE are shown prominently and are shown in larger format than the words BEST WESTERN. In my view the presentation of the mark on the directory covers is still likely to fall within Section 46(2) of the Act, as the words FIRST PLACE are distinctive in their own right and the public are well aware that the market place is full of marks that exist in association with each other e.g. Ford and Mondeo, Cadbury's and Milk Tray, which make it likely that the customer will regard the product or services as emanating from a single or connected trade origin, particularly if the source of origin possesses a reputation. In any event, within the directories there are numerous examples of use of the FIRST PLACE mark solus e.g. the 1998/1999 and 1999/2000 directories contain the following words at the top of the page for each hotel entry:- "Whatever your meeting and conference needs call the FIRST PLACE hotline", and at the bottom of the relevant page "FIRST PLACE HOTLINE.....". I conclude that the registered proprietor has used the mark FIRST PLACE as a trade mark in its own right and accordingly, the provisions of Section 46(2) are not applicable.

29. The applicant for revocation also attacks the registered proprietors evidence on the grounds that no evidence has been adduced in the form of invoices for any of the services for which revocation is sought, that the actual service provided under the trade mark is a "free venue sourcing service" only.

30. The questions to be addressed are whether the registered proprietor has used the mark in suit during the relevant period and whether such use has been genuine. In my view the evidence makes it clear that the registered proprietor has undertaken extensive promotion of the services under the mark and sought and undoubtedly obtained business under the mark e.g. through the FIRST PLACE hotline telephone number shown against the hotel entries in the "Conference & Meetings UK Directories at Exhibit MAL 1 to Mr Lynd's first declaration.

31. The specification for which the mark is registered ie. "Organising and arranging meetings and conferences" is, in my view, a fair and genuine description of the registered proprietor's activities under the mark and I do not believe it should be limited as the applicants for revocation propose. While it may be that the registered proprietor's activities primarily relate to business meetings and conference I fail to see why use of the mark has been so limited in that the registered proprietors offer and arrange services in relation to meetings and conferences in general and this would include meetings and conferences relating to, about or incorporating leisure activities of a general kind. Furthermore, it seems to me that corporate business and corporate hospitality are often intertwined and are not mutually exclusive. The registered proprietors FIRST PLACE Conference and Meetings UK Directories make it clear that a wide range of sporting and leisure activities can be, and no doubt are, provided or arranged for customers on or off site.

32. To conclude, I find that the mark FIRST PLACE has been used within the relevant period on the services covered by the specification for which the mark is registered. The application for revocation fails.

33. The registered proprietors are entitled to a contribution towards their costs and I order the applicants to pay the registered proprietors the sum of £1000. This sum to be paid within seven days of the expiry of the appeal period or within seven days of the determination of this case if any appeal against this decision is unsuccessful.

**Dated this 08 day of April 2002**

**JOHN MACGILLIVRAY**  
**For the Registrar**  
**the Comptroller-General**