

TRADE MARKS ACT 1994

**IN THE MATTER OF TRADE MARK APPLICATION No. 2380718
IN THE NAME OF PURE MASSAGE LIMITED**

**AND IN THE MATTER OF OPPOSITION THERETO UNDER No. 93522
BY THE NAIL AND BEAUTY ZONE LIMITED**

**AND IN THE MATTER OF AN APPEAL TO THE APPOINTED PERSON
AGAINST A DECISION OF MS A CORBETT DATED 20 APRIL 2007**

DECISION

1. In May 2007, Pure Massage Limited ("the Appellant") gave notice of appeal under section 76 of the Trade Marks Act 1994 from the decision of the Registrar's Hearing Officer (Ms. Ann Corbett) issued on 20 April 2007 in relation to Opposition No. 93522 filed in the name of The Nail and Beauty Zone Limited ("the Opponent") on 1 July 2005.
2. The Hearing Officer's decision is BL O/109/07. The Opposition was brought in respect of UK Trade Mark Application No. 2380718, which stands in the name of the Appellant with a filing date of 18 December 2004. The Appellant sought to register PURE MASSAGE as a trade mark for use in respect of: Massage services; massage parlours; health care relating to therapeutic massage (Class 44).
3. The request for registration was refused on relative grounds in relation to all the specified services. The Opponent was awarded the sum of £1000 in respect of its costs of the Registry proceedings.
4. In a letter dated 9 November 2007, Messrs. Alpha and Omega, the Appellant's representatives, informed me that the parties had reached a negotiated settlement whereby the Appellant and the Opponent had agreed insofar as concerns the present proceedings that the Opposition should be withdrawn so that the Application could proceed to registration without objection from the Opponent.
5. By letter dated 6 December 2007, the Opponent confirmed the negotiated settlement agreement set out in Messrs. Alpha & Omega's letter of 9 November 2007. Further in an email dated 5 December 2007, the Registrar confirmed that he had no objection to the course of action proposed by the parties.
6. In keeping with the approach adopted by the Appointed Person in, e.g., *OKO Trade Mark*, BL O/195/03 and *QUORN HUNT Trade Mark*, BL O/127/05 and with the consent of the parties as envisaged in their negotiated settlement agreement, I direct and determine:
 - (1) the determinations made by Ms. Corbett in her decision issued on 20 April 2007 in Opposition No. 93522 stand discharged;
 - (2) the Appellant's appeal from those determinations stands withdrawn with no order as to costs;
 - (3) Opposition No. 93522 stands withdrawn with no order as to costs;

- (4) Application No. 2380718 stands remitted to the Registrar for further processing in accordance with the provisions of the Act and the Rules and in the terms of the negotiated settlement agreement that has been put before me.

Professor Ruth Annand, 19 December 2007