

O-411-12

TRADE MARKS ACT 1994

**IN THE MATTER OF TRADE MARK APPLICATION 2577004
BY ADAPT ACCOUNTANCY AND BOOKEEPING LTD IN RESPECT OF THE
FOLLOWING SERIES OF TWO TRADE MARKS IN CLASSES 35, 36, 41 & 45**



AND

OPPOSITION THERETO (NO 102483) BY ADAPT SERVICES LIMITED

The background and the pleadings

1) Application 2577004 was filed by Adapt Accountancy and Bookkeeping Ltd (“AAB”) on 31 March 2011 and was published in the Trade Marks Journal on 8 July 2011. The marks (it is a series application) and the services for which registration is sought are:



Class 35: Advertising; **business management; business administration; office functions; electronic data storage;** organisation, operation and supervision of loyalty and incentive schemes; advertising services provided via the Internet; production of television and radio advertisements; accountancy; auctioneering; trade fairs; opinion polling; **data processing; provision of business information;** retail services connected with the sale of software and telecommunication equipment.

Class 36: Insurance; financial services; real estate agency services; building society services; banking; stockbroking; financial services provided via the Internet; issuing of tokens of value in relation to bonus and loyalty schemes; provision of financial information.

Class 41: Education; providing of training; entertainment; sporting and cultural activities.

Class 45: Legal services; conveyancing services; security services for the protection of property and individuals; social work services; consultancy services relating to health and safety; consultancy services relating to personal appearance; provision of personal tarot readings; dating services; funeral services and undertaking services; fire-fighting services; detective agency services.

2) Adapt Services Limited (“ASL”) opposes the registration of AAB’s marks in respect of the services which I have emboldened in the above list. Its opposition was filed on 6 October 2011 and is based on a single ground under section 5(2)(b) of the Trade Marks Act 1994 (“the Act”), relying on a single earlier mark, namely: UK registration 2553490 which is in respect of the word: **ADAPT**, which was filed on 20 July 2010, was published on 1 October 2010 and which

completed its registration procedure on 7 January 2011. The mark is registered in respect of the following goods and services:

Class 09: Computer hardware and firmware, computer software including software downloadable from the Internet, telecommunications apparatus, magnetic data carriers, data processing equipment and computers, magnetic media, optical media; but not including games hardware or software; electric and electronic system control apparatus; Electric and electronic control apparatus for power, cooling and connectivity and building management systems.

Class 35: Electronic data storage and processing; data management services and computerised data storage services.

Class 37: Installation, maintenance and repair of computer hardware; maintenance, installation and repair services for computer equipment and computer systems; installation of physical infrastructure and data centre; consultancy relating to the foregoing.

Class 38: Communications services; computer communications services; operating of communications networks; the provision of data, video and/or voice networking; the provision of data, video and/or voice transmissions; global computer electronic data networking services, namely the provision of digital data, voice and video transmissions; computer communications services, namely the provision of interactive networking services to businesses and customers via computer terminals, telephones, fibre optics and global and local computer networks; Telecommunications services; portal services; e-mail services; providing user access to the Internet; Internet transit; Multiprotocol Label Switching; inter site data centre connectivity; implementation of Virtual Private Networks over the public Internet; provision of Ethernet networks; provision of Synchronous Digital Hierarchy connections; provision of wireless networks; lease and/or hire of communications apparatus and instruments and/or of computer hardware and software being in the nature of communications apparatus and instruments; advice including management advice, information and consultancy services all relating to communications networks and provision of communications connections to the Internet and/or databases; leasing of access time to a computer database; and provision of information and/or advice and/or consultancy services relating to the foregoing.

Class 42: Computer programming; installation; maintenance and repair of computer software; computer consultancy services; design of computer software; maintaining and hosting of web sites; all the aforesaid services relating to the provision of computer networking, but not including any such services relating to computer games hardware or software; design of

computer hardware; design of computer equipment and computer systems; design of infrastructure for data centres; design services relating to communications services; design services relating to computer communications services; design services relating to operating of communications networks; design services relating to the provision of data, video and/or voice networking; design services relating to the provision of data, video and/or voice transmissions; design services relating to global computer electronic data networking services being the provision of digital data, voice and video transmissions; design services relating to computer communications services being the provision of interactive networking services to businesses and customers via computer terminals, telephones, fibre optics and global and local computer networks; design services relating to telecommunications services; design services relating to portal services; design services relating to e-mail services; design services relating to providing user access to the internet; design services relating to Internet transit; design services relating to Multiprotocol Label Switching; design services relating to inter site data centre connectivity; design services relating to implementation of Virtual Private Networks over the public Internet; design services relating to provision of Ethernet networks; design services relating to provision of Synchronous Digital Hierarchy connections; design services relating to provision of wireless networks; design services relating to lease and/or hire of communications apparatus and instruments and/or computer hardware and software being in the nature of communications apparatus and instruments; consultancy and design services relating to the foregoing.

3) Given its filing date, ASL's mark constitutes an earlier mark as defined by section 6 of the Act. Further, when the applied for mark was published, ASL's earlier mark had only completed its registration procedure some six months earlier, so, the use conditions set out in section 6A of the Act do not apply; the earlier mark may, therefore, be considered in these proceedings for the full scope of its goods and services as registered.

4) AAB filed a counterstatement denying the grounds of opposition. It considers the respective marks' to differ substantially, highlighting the colour scheme, graphics and wording and that its mark includes a pound sign. It also argues that the actual services provided by the respective companies differ. I will detail AAB's arguments on this in more detail later.

5) Only ASL filed evidence. Neither side requested a hearing. ASL filed written submissions in lieu of attending a hearing. No written submissions were received from AAB. A telephone query was raised with AAB in this respect. AAB claimed to have filed written submissions. AAB were asked to re-submit them, but, again, nothing was received. A further telephone message was left, but, again, no

response was made. I am content that AAB were afforded sufficient opportunity to provide its written submissions, but none are before the tribunal.

ASL's evidence

6) This consists of a witness statement made by Ms Louise Westbury, a trade mark attorney at Cleveland LLP, the firm with conduct of these proceedings on behalf of ASL. Ms Westbury provides various website extracts as follows:

- i) LW1 - A print from the website of Business Link, a business resource provided by the UK Government. The print advises that businesses may choose to outsource various business functions to third parties including: HR, IT, payroll, logistics, accounting, sales and marketing, health and safety.
- ii) LW2 - Prints from the website of Advanced 365, a provider of outsourced business services. I note that they “design, deploy, operate and improve IT managed services”. This includes cloud services integration, IT outsourcing, utility based services. They provide payroll services. They provide professional services which “help customers improve efficiency increase simplicity..”. Further information about professional services is provided which relate to challenges effecting your [the potential customer] IT environment. A list of “advanced business solutions” is set out which includes: business intelligence, HR software, Resources, Business News”; little is provided to explain the exact nature of these. Advanced 365 is a UK based company.
- iii) LW3 – Prints from the website of Ambosco Limited, a provider of outsourced business services. In the “WHAT WE DO” part of the website it is explained that it provides subcontracting of business processes or daily operations, IT outsourcing and business outsourcing (including business and management consultancy, business process outsourcing and IT services and solutions). Ambosco Ltd is a UK based company.
- iv) LW4 – Prints from the website (a .co.uk website) of BancTec, a provider of outsourced business services. In a section entitled “Company Overview” it is explained that BancTec is a leader in “payment, document and content processing solutions and outsourcing services”. They have helped businesses to “simplify the management of their information, business processes and operational infrastructure”. They provide hardware, software and professional services. They automate and streamline complex, high-volume, document and data intensive processes.

- v) LW5 – Prints from the website of Caliber Point, a provider of outsourced business services. They appear to focus on IT business processing outsourcing. Amongst many other offices around the world, they have an office in Slough.
- vi) LW6 – Prints from the website of Capgemini, a provider of outsourced business services. They provide application (IT) outsourcing, business process outsourcing and infrastructure outsourcing. Other services offered include finance and accounting, customer operations management, procurement, social media management, supply chain management. Capgemini have a number of offices in the UK.
- vii) LW6a – Prints from the website of CSC (who have an office in Hampshire), a provider of business solutions and services. They provide various business services, they describe themselves as a “global leader in providing technology enabled business solutions and services”.
- viii) LW7 – Prints from the website of EHM International (who have an office in London), a provider of outsourced business services. Their services include disaster recovery and IT infrastructure services. They offer company formation and secretarial services.
- ix) LW9 – Prints from the website of BDO (a UK member firm of BDO International), an accountancy organization. Its services include business restructuring (further information suggests that this is in response to insolvency issues), technology advisory services and “UK and Global Outsourcing”.
- x) LW10 – Prints from the website (the UK part of the website) of Ernst & Young, a provider of assurance, tax, transaction and advisory services. They advise on managing capital and transactions. Its advisory services include advice to “improve the performance and effectiveness of your business by examining everything from core management and business processes to future directions and opportunities for growth”. Other services include IT advice and day-to-day operations such as people and organizational change, strategic direction and program management.
- xi) LW11 – Prints from the website (a .co.uk website) of PWC, a professional services firm. Its services include consulting on operations, technology, strategy etc, “transaction services” (including due diligence services, valuations), business recovery, human resource services. It offers technology advice and change management.

- xii) LW12 – Prints from the website (the UK part of the website) of KPMG, a professional services firm. Its services include auditing, tax and advice. Other services include business intelligence, business modeling, business resilience, customer management, restructuring, organization design, strategy advice, supply chain optimization, transaction services, transforming operations, technology risk consulting.

Section 5(2)(b)

7) Section 5(2)(b) of the Act reads:

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

(a)

(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.”

8) In reaching my decision I have taken into account the guidance provided by the Court of Justice of the European Union (“CJEU”) in a number of judgments: *Sabel BV v. Puma AG* [1998] R.P.C. 199, *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer* [1999] R.P.C. 117, *Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V* [2000] F.S.R. 77, *Marca Mode CV v. Adidas AG + Adidas Benelux BV* [2000] E.T.M.R. 723, *Case C-3/03 Matrazen Concord GmbH v GmbHv Office for Harmonisation in the Internal Market* [2004] ECR I-3657 *Medion AG V Thomson multimedia Sales Germany & Austria GmbH* (Case C-120/04) and *Shaker di L. Laudato & Co. Sas* (C-334/05). In *La Chemise Lacoste SA v Baker Street Clothing Ltd* (O/330/10) Mr Geoffrey Hobbs QC, sitting as the Appointed Person, quoted with approval the following summary of the principles which are established by these cases:

“(a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors;

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, 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, and whose attention varies according to the category of goods or services in question;

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

(e) nevertheless, the overall impression conveyed to the public by a composite trade mark may, in certain circumstances, be dominated by one or more of its components;

(f) and beyond the usual case, where the overall impression created by a mark depends heavily on the dominant features of the mark, it is quite possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

(g) a lesser degree of similarity between the goods or services may be offset by a great degree of similarity between the marks, and vice versa;

(h) 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;

(i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;

(j) 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;

(k) if the association between the marks causes the public to wrongly believe that the respective goods [or services] come from the same or economically-linked undertakings, there is a likelihood of confusion."

The average consumer

9) The case-law informs me that the average consumer is reasonably observant and circumspect (*Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V* paragraph 27). The degree of care and attention the average consumer uses when selecting goods or services can, however, vary depending on what is involved (see, for example, the judgment of the General Court ("GC") in *Inter-Ikea Systems BV v OHIM* (Case T-112/06)). As will become apparent, the services which are most relevant in these proceedings consist of what are often described

as business to business services. The service providers will not be selected in a casual manner. A good deal of care will be used by the average consumer given the costs involved, the suitability for purpose of the service, and to ensure that quality and reliability is that required. Websites and brochures are likely to be inspected, so bringing a focus to the visual characteristics of the marks; however, aural characteristics will also to be fully borne in mind as, for example, word or mouth recommendations may be made.

Comparison of goods/services

10) When making the comparison, all relevant factors relating to the goods and services in the respective specifications should be taken into account in determining this issue. In *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer* the CJEU stated at paragraph 23 of its judgment:

“In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, *inter alia*, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary.”

11) Guidance on this issue has also come from Jacob J In *British Sugar Plc v James Robertson & Sons Limited* [1996] RPC 281 where the following factors were highlighted as being relevant when making the comparison:

- “(a) The respective uses of the respective goods or services;
- (b) The respective users of the respective goods or services;
- (c) The physical nature of the goods or acts of service;
- (d) The respective trade channels through which the goods or services reach the market;
- (e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be found in supermarkets and in particular whether they are, or are likely to be, found on the same or different shelves;
- (f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.”

12) In terms of being complementary (one of the factors referred to in *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer*), this relates to close connections or relationships that are important or indispensable for the use of the other. In *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs)* (OHIM) Case T- 325/06 it was stated:

“It is true that goods are complementary if there is a close connection between them, in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods lies with the same undertaking (see, to that effect, Case T-169/03 *Sergio Rossi v OHIM – Sissi Rossi (SISSI ROSSI)* [2005] ECR II-685, paragraph 60, upheld on appeal in Case C-214/05 *P Rossi v OHIM* [2006] ECR I-7057; Case T-364/05 *Saint-Gobain Pam v OHIM – Propamsa (PAM PLUVIAL)* [2007] ECR II-757, paragraph 94; and Case T-443/05 *El Corte Inglés v OHIM – Bolaños Sabri (PiraÑAM diseño original Juan Bolaños)* [2007] ECR I-0000, paragraph 48).”

13) In relation to understanding what terms used in specifications mean/cover, the case-law informs me that “in construing a word used in a trade mark specification, one is concerned with how the product is, as a practical matter, regarded for the purposes of the trade”¹ and that I must also bear in mind that words should be given their natural meaning within the context in which they are used; they cannot be given an unnaturally narrow meaning². However, I must also be conscious not to give a listed service too broad an interpretation; in *Avnet Incorporated v Isoact Limited* [1998] F.S.R. 16 (“*Avnet*”) Jacob J stated:

“In my view, specifications for services should be scrutinised carefully and they should not be given a wide construction covering a vast range of activities. They should be confined to the substance, as it were, the core of the possible meanings attributable to the rather general phrase.”

14) In terms of the arguments/evidence put forward by the parties, I note from AAB’s counterstatement various comments relating to its way of doing business which is “essentially an online data and communications service that connects businesses worldwide” compared to those of ASL. However, the arguments appear to focus more on the way of doing business rather than the inherent nature of the services as applied for/registered, which must be appreciated on a notional basis. The current working methods are not particularly pertinent to this matter as they could change over time³. ASL’s evidence attempts to

¹ See *British Sugar Plc v James Robertson & Sons Limited* [1996] RPC 281

² See *Beautimatic International Ltd v Mitchell International Pharmaceuticals Ltd and Another* [2000] FSR 267

³ See, for example, *NHL Enterprises BV v Office for Harmonization in the Internal Market(Trade Marks and Designs)* (OHIM) Case T-414/05.

demonstrate that service providers offer a range of outsourced services to assist a business. Whilst this is noted and whilst it demonstrates that a number of service providers do so, the evidence does not necessarily support that the full range of services to be compared are offered by such undertakings – there is, though, some overlap. I note, for example, that even AAB, within its business methodology, offers accountancy, business and legal advice, data management, data storage etc.

15) ASL rely on all of its goods and services as registered, however, when making the comparison, I will focus on what appears to be the most relevant services of the earlier mark, namely, the following services in class 35:

Electronic data storage and processing; data management services and computerised data storage services

16) I will compare the above with the applied for (and opposed) services:

Electronic data storage; data processing

17) Electronic data storage is listed in both specifications and, thus, the services are identical. In terms of “data processing”, this is not limited to electronic data processing as in the earlier mark, but, nevertheless, the services may be considered identical because the applied for service includes within its ambit electronic data processing. Even if a fall back specification were provided excluding electronic data processing, the services would still be highly similar on account of the purpose being the same (the processing of data), and that the users and channels of trade would clearly overlap.

Office functions

18) Office functions will include a variety of services that a business may outsource to a service provider. It seems that such a description could well include data processing which would ordinarily be carried out by the businesses own office staff. This creates a clear similarity of purpose, users and trade channels, and a possible competitive relationship. I consider the services to be reasonably similar.

Provision of business information

19) The provision of business information could be one of the outputs of data processing. A businesses’ data may be processed in order to obtain information on trends, sales peaks and troughs etc. This link creates a similarity of purpose and the users will be the same. Whilst not strictly competitive or complementary there are nevertheless some similarities. The evidence demonstrates that some service providers offer a variety of outsourced services, so bringing a potential

similarity in terms of trade channels. I consider there to a moderate degree of similarity between these services.

Business administration

20) Business administration will, again, also cover a number of functions. It is aimed at assisting businesses in the day to day running of certain aspects of its operation, but focusing more on administrative tasks. As with office functions, this could, potentially, include the electronic processing of data. Even if it does not, the purpose is to assist businesses with certain processes which may be of a similar vein to data processing. The users are likely to be the same. The trade channels could be the same. Whilst not clearly complementary or competitive, there is still at least a moderate degree of similarity.

Business management

21) The analysis here is similar to business administration, albeit this service focuses more on the overall management of a businesses' operation rather than just the administrative side. Nevertheless, in comparison with electronic data processing, I consider the same similarities and differences to be in play. There is a moderate degree of similarity.

Comparison of the marks

22) The average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The visual, aural and conceptual similarities of the marks must be assessed by reference to their overall impressions, bearing in mind their distinctive and dominant components. I see no difference in assessment between the two marks the subject of the application. I therefore make the comparison on the basis of the following:



23) The dominant and distinctive element of both marks is the word ADAPT; indeed, it is the only element of ASL's mark. Whilst the other features of AAB's mark will be borne in mind, it is nevertheless clear that the word ADAPT will be the mark's primary focus.

24) In terms of aural similarity, the marks will be pronounced as ADAPT ACCOUNTANCY v ADAPT. Given the descriptive nature of the word ACCOUNTANCY, I come to the clear view that there is a very high degree of aural similarity. This also applies to the conceptual comparison, the concept of both marks focusing on the identical word (and meaning) ADAPT.

25) In terms of visual similarity, AAB focus on the colour, the presentation of the marks, and the £ sign that appears in its mark. However, I do not agree that the A, and its incorporation into the underlining, will necessarily be perceived by the average consumer as a pound sign – such a perception may have been the intention, but I do not consider it to be immediately apparent. The overall presentation does, though, need to be borne in mind. To this extent, the stylisation does create a degree of visual difference, however, it does not disguise the fact that the word is still ADAPT and whilst the presentation is more than the use of a particular script, it does not appear to me to be particularly striking. The colour of the mark is of little significance given that the earlier mark is not registered with regard to colour and, thus, colour should be taken as having no real distinguishing effect⁴. I must also bear ASL's submission in mind that the notional use of its mark would include use in various type fonts including for example, italicised Ariel, which means the earlier mark would look like this:

Adapt

26) Whilst the above is noted, I do not consider it necessary to overlay this. Whilst the presentation of the applied for mark is borne in mind, it is not considered to achieve a significant amount in countering the similarity borne from the presence in both marks of the word ADAPT. All things considered, and weighing the similarities and differences, I conclude that there is a reasonably high degree of visual similarity. This, coupled with my assessment of the aural and conceptual similarities, means that, overall, I have little hesitation in concluding that the respective trade marks are highly similar.

The distinctiveness of the earlier mark

27) The degree of distinctiveness of the earlier mark must be assessed. This is because the more distinctive the earlier mark (based either on inherent qualities or because of use made), the greater the likelihood of confusion (see *Sabel BV v. Puma AG*, paragraph 24). No evidence of the use of the earlier mark having been filed, I have only its inherent characteristics to consider. From this perspective, the word ADAPT is a commonly known and understood English word. It is not completely fanciful as it may have some allusive characteristics suggesting that the services offered will help a business adapt its working processes. For this reason the mark has, in my view, only a moderate degree of inherent distinctive character.

⁴ See, for example, *Mary Quant Cosmetics Japan Ltd v. Able C&C Co Ltd*, O-246-08 and *Specsavers International Healthcare Limited & Others v Asda Stores Limited* [2010] EWHC 2035 (Ch)

Likelihood of confusion

28) The factors assessed so far have a degree of interdependency (*Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraph 17), a global assessment of them must be made when determining whether there exists a likelihood of confusion (*Sabel BV v. Puma AG*, paragraph 22). However, there is no scientific formula to apply. It is a matter of considering the relevant factors from the viewpoint of the average consumer and determining whether they are likely to be confused.

29) The earlier mark is moderately distinctive. The marks are highly similar. In terms of where the services are identical or reasonably similar then, notwithstanding the good deal of care and consideration that will be used when selecting a service provider, I come to the clear view that the average consumer will believe that the services being offered under the marks are the responsibility of the same or an economically linked undertaking. I extend this finding to the other opposed services. Even though there is less similarity between the services, I come to the view that the average consumer will believe that the use of the marks in question will indicate to them a same stable service, that a range of business services are being offered by the same or an economically linked undertaking under a similar mark. **The opposition succeeds in its entirety.** However, as the opposition was made on a partial basis, certain services are not affected. The impact is as follows:

Opposition succeeds in respect of:

Class 35: business management; business administration; office functions; electronic data storage; data processing; provision of business information.

But opposition has no effect in respect of:

Class 35: Advertising; organisation, operation and supervision of loyalty and incentive schemes; advertising services provided via the Internet; production of television and radio advertisements; accountancy; auctioneering; trade fairs; opinion polling; retail services connected with the sale of software and telecommunication equipment.

Class 36: Insurance; financial services; real estate agency services; building society services; banking; stockbroking; financial services provided via the Internet; issuing of tokens of value in relation to bonus and loyalty schemes; provision of financial information.

Class 41: Education; providing of training; entertainment; sporting and cultural activities.

Class 45: Legal services; conveyancing services; security services for the protection of property and individuals; social work services; consultancy services relating to health and safety; consultancy services relating to personal appearance; provision of personal tarot readings; dating services; funeral services and undertaking services; fire-fighting services; detective agency services.

Costs

30) ASL has been successful and is entitled to a contribution towards its costs. I hereby order Adapt Accountancy and Bookkeeping Ltd to pay Adapt Services Limited the sum of £1400. This sum is calculated as follows:

Preparing a statement and considering the other side's statement
£300

Opposition fee
£200

Filing evidence
£500

Filing submissions
£400

31) The above sum should be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful

Dated this 22nd day of October 2012

**Oliver Morris
For the Registrar,
The Comptroller-General**