

O-406-13

**THE TRADE MARKS (INTERNATIONAL REGISTRATION) ORDER 2008 AND
TRADE MARKS ACT 1994**

**IN THE MATTER OF INTERNATIONAL REGISTRATION NO. 1111498
FOR THE TRADE MARK**

GREEN VALLEY

IN CLASS 33

**IN THE NAME OF
“TSAREFF” COMPANY LIMITED**

**AND THE APPLICATION FOR THE GRANTING OF PROTECTION THEREOF IN
THE UNITED KINGDOM**

AND

**THE OPPOSITION THERETO
UNDER NO. 72467
BY
DHAMECHA FOODS LIMITED**

BACKGROUND

1) “Tsareff” Company Limited (‘TCL’) is the holder of the international registration for the trade mark **GREEN VALLEY**. The United Kingdom was designated in respect of the international registration on 27 October 2011 for goods in Classes 32 and 33.

2) The international registration was published, for opposition purposes, in the Trade Marks Journal on 10 August 2012 and notice of opposition was later filed by Dhamecha Foods Limited (‘DFL’). DFL claimed that the application offended under sections 5(1) and 5(2)(a) of the Trade Marks Act 1994 (‘the Act’).

3) Subsequent to the filing of DFL’s notice of opposition, TCL restricted its application for the granting of protection to ‘*Whisky*’ only in Class 33. As a consequence, DFL now restricts its grounds of opposition to section 5(2)(a) only.

4) One earlier UK trade mark registration is relied upon, details of which are as follows:

| Mark details | Goods relied upon |
|---|-------------------------------|
| <p>UK trade mark: 2263384</p> <p>GREEN VALLEY</p> <p>Filing date: 07 March 2001</p> <p>Date of entry in the register: 17 August 2001</p> | <p>Class 33: Wines</p> |

5) The earlier mark has a filing date of 07 March 2001 and completed its registration procedure on 17 August 2001. The consequences of these dates are, in relation to TCL’s mark, that i) DFL’s registration is an earlier mark in accordance with section 6 of the Act and ii) it is subject to the proof of use conditions contained in section 6A of the Act. DFL claims it has made genuine use of its trade mark in relation to ‘*Wines*’.

6) TCL filed a counterstatement in which it put DFL to proof of use of its earlier mark in relation to ‘*wines*’. It also denies, with explanation, that the respective goods are similar or that there exists a likelihood of confusion.

7) Only DFL filed evidence during the evidential rounds; the holder filed submissions only. Neither party requested to be heard; only DFL filed submissions in lieu. I therefore make this decision after conducting a thorough review of the papers and giving full consideration to the respective submissions (including those made in the notice of opposition and counterstatement) and evidence which has been filed. I will refer to specific submissions as, and when, I consider it appropriate.

DFL's evidence

8) DFL's evidence consists of two witness statements and exhibits thereto. The first witness statement is dated 18 March 2013 and is in the name of Amit Dhamecha, buyer for Dhamecha Foods Limited. At paragraph 2, Mr Dhamecha states that he has held this position since 1992.

9) At paragraph 3, Mr Dhamecha explains that his company operates a Cash & Carry business, supplying a comprehensive range of products, including wines, to independent retailers in the UK and also for export.

10) At paragraph 5, Mr Dhamecha states that GREEN VALLEY is one of his company's most significant brands. He goes on to explain that his company has imported the wine from France since at least 1994 from a French supplier, Alliance Terroirs. He then refers to exhibit AD1 which he states contains a letter from the aforementioned supplier, confirming this arrangement. Mr Dhamecha states that there are six varieties within the GREEN VALLEY range, namely, Sauvignon, Chardonnay, Merlot, Cabernet, Grenach Gris and Syrah. He also states that the labels and bottle tops in exhibit AD1 are illustrative of each variety as it is currently used in the UK. The following is exhibited at AD1:

- A letter addressed to 'Dear Madam, sear Sir' from a French supplier stating that it has delivered, since 1997, a variety of different wines to the opponent's company. As the author of this letter has not submitted a witness statement, this letter is hearsay evidence.
- Examples of wine bottle labels used on a variety of different wines including Chardonnay, Syrah, Sauvignon Blanc. The mark



is visible on the labels.

- The following mark is visible on bottle tops:



11) At paragraph 6, Mr Dhamecha states that his company has promoted GREEN VALLEY wine. He refers to exhibit AD2 which he states shows extracts from his

company's brochures for the years 2007, 2008, 2010 and 2012 in which GREEN VALLEY wine is the subject of price promotion. The following is exhibited at AD2:

- Four brochures from 2007, 2008, 2010 and 2012 of a promotional nature for Dhamecha Cash & Carry. All of the brochures advertise a variety of different wines for sale including Grenache Gris, Chardonnay and Merlot. The labels and bottle tops visible on the wine bottles are identical to those exhibited at AD1.

12) At paragraph 7, Mr Dhamecha refers to exhibit AD3 which he states contains invoices which are illustrative of the types of sale of GREEN VALLEY his company has made to supermarkets, off licences and convenience stores for each of the years 2007-2012. The following is exhibited at AD3:

- Six invoices dated 30/08/2007, 23/08/2008, 28/08/09, 02/05/10, 05/05/11 and 23/07/12. All are issued by Dhamecha Cash & Carry. They are addressed to a variety of retail establishments in London. Each invoice lists a variety of alcohol and foodstuffs, including 'GREEN VALLEY CAB.SAUV 75 cl', 'GREEN VALLEY MERLOT 75 cl' and 'GREEN VALLEY SYRAH 75 cl'.

13) At paragraph 8, Mr Dhamecha concludes his witness statement by stating that the GREEN VALLEY brand has been used as the name of a wine in the UK for at least the past 15 years continuously.

14) The second witness statement is dated 19 March 2013 and is in the name of Camilla Sexton, registered trade mark attorney at the firm Wildbore & Gibbons LLP, DFL's representative in these proceedings.

15) At paragraph 3, Ms Sexton refers to exhibit CS1 which she states shows examples of retail merchants specialising in both wine and whisky as well as an example of Malt Whisky & Wine Gift Sets available from Waitrose. Ms Sexton also states that the same exhibit shows that Waitrose and Sainsbury's sell both own brand whisky and own brand wine. Included in exhibit CS1 is the following:

- Print outs from three UK websites of merchants who appear to specialise in wine and whisky. These are 'WOODWINTERS wines and whiskies', 'THE WRIGHT WINE COMPANY' and 'Mainly Wine and Whisky'.
- A print out from www.waitrosedirect.com showing an advert for 'Malt Whisky & Wine Gift Set' priced at £50.00.
- Print outs from www.waitrose.presscentre.com showing an article entitled 'Waitrose Re-Launch Own Label Wines, Beers & Spirits'. Images of 'Waitrose' branded wine and 'Waitrose Blended Scotch Whisky' are visible.

16) At paragraph 4, Ms Sexton refers to exhibit CS2 which she states shows extracts from various auction houses' websites illustrating that wine and whisky are generally grouped together at an auction for sale of fine and rare alcoholic beverages. She also refers to examples within the same exhibit of whiskies which have been

matured in wine casks in order to assist their flavour. Included in exhibit CS2 is the following:

- A print out from www.tennants.co.uk entitled 'Wine Auctions & Whisky Auctions at Tennants'. It states, *inter alia*, 'The Fine Wine and Whisky department specialises in auctioneering fine, collectable and affordable wines, champagne, port, Madeira, cognac, whiskey, chartreuse and corkscrews...' and 'Tennants Auctioneers have specialist Wine Auctions and Whisky Auctions throughout the year.'
- A print out from www.bonhams.com entitled 'Wine and Whisky'. It states, *inter alia*, 'Bonhams Wine and Whisky sales feature fine and rare as well as affordable wines, with dedicated auctions of whisky'.
- A print out from www.mulberrybankauctions.com entitled 'Whisky & Wine'. Under the heading 'Auction Calendar' it states '19 March 2013: Rare and Collectable Whisky & Wine'.
- Print outs from www.thewhiskyexchange.com and www.drinksupermarket.com showing whiskies for sale (in £) which have been matured in wine casks.

17) At paragraph 5, Ms Sexton refers to exhibit CS3. This is an extract from www.homeoffice.gov.uk relating to alcohol licensing which shows that an alcohol license covers alcohol in general and is required by any business, organisation or individual planning to sell or supply alcohol. As such, Ms Sexton states that any business, organisation or individual which is licensed to sell or supply whisky will also be licensed to sell or supply wine.

DECISION

The proof of use provisions

18) The relevant legislation provides:

"6A Raising of relative grounds in opposition proceedings in case of non-use

(1) This section applies where –

(a) an application for registration of a trade mark has been published,

(b) there is an earlier trade mark of a kind falling within section 6(1)(a), (b) or (ba) in relation to which the conditions set out in section 5(1),(2) or (3) obtain, and

(c) the registration procedure for the earlier trade mark was completed before the start of the period of five years ending with the date of publication.

(2) In opposition proceedings, the registrar shall not refuse to register the trade mark by reason of the earlier trade mark unless the use conditions

are met.

(3) The use conditions are met if –

- (a) within the period of five years ending with the date of publication of the application the earlier trade mark has 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, or
- (b) the earlier trade mark has not been so used, but there are proper reasons for non-use.

(4) For these purposes –

- (a) 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, ...

...

(5) In relation to a Community trade mark or international trade mark (EC), any reference in subsection (3) or (4) to the United Kingdom shall be construed as a reference to the European Community.

(6) Where an earlier trade mark satisfies the use conditions in respect of some only of the goods or services for which it is registered, it shall be treated for the purposes of this section as if it were registered only in respect of those goods or services...”

19) Section 100 is also relevant. It states:

“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.”

20) In order to satisfy the proof of use provisions, DFL must show that it has put its earlier mark to genuine use within the relevant five year period of 11 August 2007 to 10 August 2012. The leading authorities on the principles to be applied can be found in the judgments of the Court of Justice of the European Union (CJEU) in *Ansul BV v Ajax Brandbeveiliging BV* [2003] R.P.C. 40 and *Laboratoire de la Mer Trade Marks* C-259/02. In its submissions filed during the evidential rounds, TCL appears to concede that genuine use has been made by DFL of its mark in relation to wine. It states, *inter alia*, the following:

...Furthermore, “wines” is also a fair description which would be used by the average consumer for the goods on which the earlier mark has been used. In accordance with the authorities quoted by the Appointed Person in Nirvana Trade Mark BL O/262/06.

21) In light of the above concession, there is no need for me to determine the matter of proof of use. Suffice it to say, I agree with TCL that genuine use has been shown in relation to wine; the use, whilst small, is not token. I note that TCL does not

appear to take issue with the form in which the earlier mark has been used and therefore this is also not a matter which I need to address. I will however state that had I been required to, I would have found that the stylised form of the mark which has been used falls within the category of an acceptable variant, in any event, in accordance with the test in *Bud/Budweiser Budbrau* [2003] RPC 25 and bearing in mind the guidance in *NIRVANA* (BL O/262/06) and *REMUS* (BL O/061/08).

Section 5(2)(a)

22) This section of the Act 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, ...,

(b),

there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark.

23) The leading authorities which guide me in approaching the assessment of the likelihood of confusion are from the CJEU: *Sabel BV v Puma AG* [1998] RPC 199, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc* [1999] RPC 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, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH* C-120/04 and *Shaker di L. Laudato & C. Sas v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) C-334/05 P (LIMONCELLO)*. 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*,

(b) the matter must be judged through the eyes of the average consumer for the goods/services in question; *Sabel BV v Puma AG*, 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.*,

(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*,

(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*,

(e) assessment of the similarity between two marks means more than taking just one component of a composite trade mark and comparing it with another

mark; the comparison must be made by examining each of the marks in question as a whole, which does not mean that the overall impression conveyed to the relevant public by a composite trade mark may not, in certain circumstances, be dominated by one or more of its components; *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*,

f) it is only when all other components of a complex mark are negligible that it is permissible to make the comparison on the basis of the dominant element; *Shaker di L. Laudato & C. Sas v OHIM*,

(g) 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*,

(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; *Sabel BV v Puma AG*,

(i) in determining whether similarity between the goods or services covered by two trade marks is sufficient to give rise to the likelihood of confusion, the distinctive character and reputation of the earlier mark must be taken into account; *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*,

(j) 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*,

(k) 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 and Adidas Benelux BV*,

(l) 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*.

Comparison of marks

| DFL's mark | TCL's mark |
|---------------------|---------------------|
| GREEN VALLEY | GREEN VALLEY |

24) The respective marks are clearly identical.

Average consumer and the purchasing act

25) It is necessary to consider these matters from the perspective of the average consumer of the goods at issue (*Sabel BV v. Puma AG*). The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect, but his/her level of attention is likely to vary according to the category of goods.

26) In its submissions TCL states, *inter alia*, the following:

... Purchases of fine and rare wines and whiskies referred to in paragraph 4 of Camilla Sexton's witness statement will be made with particular care, deliberation and knowledge...

27) At this point, I remind myself that the respective specifications are for 'wines' and 'whisky' in general. Neither specification is limited to 'fine and rare' wines or whisky.

28) Wine and whisky will be purchased by members of the general public of at least 18 years of age. Both wine and whisky are likely to vary greatly in price; the cost being dependent on factors such as their age, quality, method of production and geographical origin. Even where the wine or whisky is at the lower end of the cost scale, it is likely that the average consumer will wish to ensure that they are selecting a preferred type, strength, or flavour, for example. As such, in all instances, at least a reasonable level attention will likely be paid during the purchase for both parties' goods, but not always with the particular care, deliberation and knowledge contended by TCL.

Comparison of goods

29) In the instant case, the goods to be compared are:

| DFL's goods | TCL's goods |
|-------------------------------|---------------------------------|
| <i>Class 33: Wines</i> | <i>Class 33: Whisky.</i> |

30) The leading authorities as regards determining similarity between goods and services are considered to be *British Sugar Plc v James Robertson & Sons Ltd* ('*Treat*') [1996] R.P.C. 281 and *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer* [1999] R.P.C. 117 ('*Canon*'). In the latter case, the CJEU accepted that all relevant factors should be taken into account including the nature of the goods/services, their intended purpose, their method of use and whether they are in competition with each other or are complementary. The criteria identified in the *Treat* case were:

- (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.

31) In support of its contention that wine and whisky are similar goods, DFL refers to the comments of Mr. Geoffrey Hobbs QC sitting as the Appointed Person in *Balmoral Trade Mark* (BL/0/304/98). Whilst I bear in mind the findings made by Mr Hobbs QC, I am not bound to follow them. Further, I note that the decision was made in August 1998, prior to the judgment in *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc* (although post *British Sugar Plc v James Robertson & Sons Limited*). I consider it necessary to stick to first principles, i.e. to compare the respective goods within the parameters of the case law set out at paragraph 30 above.

32) In summary, DFL further contends, with reference to the factors set out in *Canon* that i) the respective goods are identical in nature, ii) their uses are identical and/or overlap to a large degree with neither drink being consumed in order to quench the thirst iii) their end users are members of the adult general public and, iv) the respective trade channels are identical.

33) TCL states that it does not deny that the respective goods may be sold through the same retail outlets however it submits that the respective goods can nonetheless be differentiated since they are displayed on different shelves and under different headings or labels. In its counterstatement it states, *inter alia*, the following:

Wines and whisky are not similar. It is not sufficient to say that they are both alcoholic drinks because they have different natures and origins. Wines are produced from the fermentation of grape or other fruit juices, whereas whisky is distilled from grain. Wines contain between 10% and 20% alcohol by volume but whisky is sold at or near an alcoholic strength of 40% alcohol by volume and the respective goods are subject to different levels of excise duty. The respective goods are not complementary or in competition with each other- a consumer will not reach for a bottle of whisky to accompany a meal by mistake for a bottle of sauvignon blanc, chardonnay, merlot or syrah. The respective goods do not come from the same source-wine producers do not make whisky or vice versa. The distinction between wines and whisky is recognised by the fact that they are displayed for sale in different areas of retail stores under the separate categories of "wines" and "spirits".

34) In its submissions, filed during the evidential rounds, it also states, *inter alia*, the following:

Wines and whisky are perceived by consumers as two distinct products. They are identified separately for marketing purposes, they have different colours, smells and tastes, and they are not really interchangeable or substitutable for one another because they have different alcoholic strengths.

35) In light of my findings in relation to the average consumer, the users of both parties' goods will be the same i.e. the general public of at least 18 years of age. As regards nature, both are alcoholic drinks. However, as submitted by TCL, wine is produced by the process of fermentation whereas whisky is distilled, they have

differing smells, colours and tastes and the alcohol by volume content of wine is usually significantly lower than that of whisky. Turning to the respective uses and intended purpose, I agree with TCL that wine is unlikely to be substituted for whisky as an accompaniment to a meal or that the respective goods would be in competition in this regard. However, I agree with DFL that neither wine nor whisky would be described as a thirst quenching drink and that both beverages share the common purpose of providing an enjoyable and/or relaxing drinking experience, perhaps at a social gathering or relaxing in one's home, for example. Insofar as channels of trade are concerned, the evidence of Ms Sexton indicates that, on occasion, wine and whisky may be grouped together for sale and sold through the same merchants. My own experience, as a representative average consumer, also informs me that the respective goods will both be sold predominantly in public houses and, as Ms Sexton's evidence also indicates, in supermarkets. Whilst I agree with TCL that the goods are unlikely to be stocked on the same shelves at a supermarket, they are usually located in close proximity in the same general area.

36) Taking into account all of the above factors, I conclude that there is similarity between the respective goods. I put the level of similarity at low to moderate overall.

Distinctive character of the earlier mark

37) I must consider the distinctive character of the earlier mark. The distinctive character of a trade mark must be assessed by reference to the goods or services for which it is registered and by reference to the way it is perceived by the relevant public (*Rewe Zentral AG v OHIM (LITE) Case T-79/00 [2002] ETMR 91*).

38) The earlier mark consists of two everyday English words, GREEN VALLEY. To my mind, these words are suggestive of the location or surroundings in which wine may be produced i.e. wine produced in a green valley or from grapes sourced from a green valley. That said, it is imprecise in that it does not describe the location of the green valley. All in all, I consider the earlier mark to be possessed of a low to moderate degree of inherent distinctive character in relation to wine.

39) As regards DFL's evidence of use, earlier in this decision I indicated that I agreed with TCL that genuine use had been shown in relation to wine. However, the same evidence falls short of persuading me that the distinctive character of the mark has been increased through the use made of it. The scale of use, whilst not token, is small and there is no indication of annual turnover, advertising expenditure or market share. I will therefore proceed on the basis of the mark's inherent distinctive character only which, as stated above, is low to moderate.

Likelihood of confusion

40) In deciding whether there is a likelihood of confusion I must take account of all of the above factors. I must also keep in mind the following:

- i) the interdependency principle, whereby a lesser degree of similarity between the goods may be offset by a greater similarity between the marks, and vice versa (*Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*);

- ii) the principle that the more distinctive the earlier mark is, the greater is the likelihood of confusion (*Sabel BV v Puma AG*), and;
- iii) the factor of imperfect recollection i.e. that consumers rarely have the opportunity to compare marks side by side but must rather rely on the imperfect picture that they have kept in their mind (*Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V.*).

41) In its submissions, TCL states:

The present proceedings are not on all fours with the Balmoral case referred to by the opponent in paragraph 2 of the witness statement of Camilla Sexton because that case involved no proof of use issues. The operation of Section 6A(6) means that, in the present proceedings, the earlier mark must be treated as giving narrower protection-restricted to “wines” (as claimed in the statement of use) in the same way as if it had been partially revoked-than if the earlier mark was registered for “wines” from the outset and may have enjoyed a “penumbra” of protection extending to other goods. If this were not the case, the purpose of the provisions of section 6A would be defeated.

42) I find this submission to be rather a strange one (particularly the section which I have underlined). Firstly, DFL has, from the outset of these proceedings relied only upon the term ‘Wines’. Secondly, TCL appears to suggest that a likelihood of confusion is precluded merely because the opponent has had to prove use of its mark. The issue of proof of use and the issue of the likelihood of confusion are distinct considerations. The purpose of section 6A is merely to establish upon which goods/services an opponent is entitled to rely. Once the proof of use provisions are satisfied, as they have been in the instant case, it is then necessary to conduct the assessment of whether a likelihood of confusion exists. This assessment involves a global appreciation of the same factors as those involved had the mark not been subject to proof of use.

43) I have found there to be identity between the respective trade marks and that the earlier mark is possessed of a low to moderate degree of inherent distinctive character. I have also found that the respective goods are similar to a low to moderate degree. The average consumer will primarily be the general public over the age of 18 and, at least, a reasonable degree of attention is likely to be paid during the purchasing act.

44) Drawing all of the above findings together, and bearing in mind, in particular, the interdependency principle, I find that, notwithstanding the low to moderate degree of inherent distinctive character of the earlier mark, the identity between the respective marks is sufficient to offset the low to moderate degree of similarity between the goods. I find there to be a likelihood of confusion under section 5(2)(a) of the Act.

DFL’s opposition succeeds.

COSTS

45) Dhamecha Foods Limited has been successful and is entitled to an award of costs. I award costs on the following basis:

| | |
|---|--------------|
| Preparing notice of opposition and considering a counterstatement: | £300 |
| Opposition fee: | £200 |
| Preparing and filing evidence: | £500 |
| Written Submissions: | £300 |
| Total: | £1300 |

46) I order "Tsareff" Company Limited to pay Dhamecha Foods Limited the sum of **£1300**. This sum is to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 14th day of October 2013

**Beverley Hedley
For the Registrar,
the Comptroller-General**