

O-038-14

**TRADE MARKS ACT 1994**

**IN THE MATTER OF TRADE MARK APPLICATION 2605692  
BY ANIL SETHI  
TO REGISTER THE FOLLOWING TRADE MARK IN CLASSES 30 & 43:**

**BFL BIKANER**

**AND**

**OPPOSITION THERETO (NO 103309) BY BIKANERVALA FOODS PRIVATE  
LIMITED**

## **Supplementary decision**

1) On 21 November 2013 I issued a decision in relation to these proceedings. In summary, I upheld the opposition under section 5(2)(b) but only in relation to some of the opposed goods and services. However, two of the terms for which the opposition succeeded were only to be refused because they included within their ambit certain services. I therefore invited Mr Sethi, the applicant, to provide a limited specification. I dealt with this in the following way:

### **“Outcome of opposition**

86) The goods/services identified under paragraphs 78 and 79 are those which are to be registered/refused respectively.

### **Costs**

87) The net effect of the opposition strikes me as something of a score-draw. In the circumstances, I do not propose to favour either party with an award of costs.

### **Revised specification**

88) In my conclusions, I have upheld the opposition against “temporary accommodation; provision of holiday accommodation” on the basis that such terms include, for example, hotel services. However, if the terms were to be limited then it may be possible to register the mark for other forms of temporary accommodation/holiday accommodation. I gave an example of the provision of self-catering holiday apartments earlier in this decision. In view of this, Mr Sethi is permitted 14 days to put forward any revised terms that:

- i) Fall within the ambit of “temporary accommodation; provision of holiday accommodation” in class 43;
- ii) And do not have restaurants/other food and/or drink related services as a key component.

89) Mr Sethi should copy any revised terms he suggests to BFP who will be allowed 14 days to comment. I will then issue a supplementary decision in which I will decide whether any proposed terms are free from objection. If Mr Sethi puts forward no revised terms then I will issue a supplementary decision confirming the outcome as it stands in paragraphs 78 & 79 above. The appeal period for the substantive and supplementary decisions will run from the date of the supplementary decision.”

2) Mr Sethi did not provide a limited specification. Consequently, my findings as they stood in the first decision still stand. For sake of clarity, the opposition under section 5(2)(b) fails in respect of:

**Class 30:** Coffee, tea, cocoa, sugar, artificial coffee; flour, bread, pastry; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (condiments); spices; ice; sandwiches; prepared meals; pizzas, pies and pasta dishes.

**Class 43:** Booking and reservation services for Holiday accommodation; retirement home services; creche services

But succeeds in respect of:

**Class 30:** Indian savouries & sweets made of rice, corn & flour; rice, tapioca, sago; preparations made from cereals, confectionery, ices.

**Class 43:** Services for providing food and drink; temporary accommodation; restaurant, bar and catering services; provision of holiday accommodation; booking and reservation services for restaurants.

3) The appeal period will now commence as of the date of issue of this supplementary decision.

**Dated this 23rd day of January 2014**

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