

O-426-15

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION No. 3055341
BY MEDIATIVE LIMITED
TO REGISTER THE TRADE MARK**



**IN CLASS 38
AND**

**IN THE MATTER OF OPPOSITION
THERE TO UNDER No. 402912 BY
NATIONAL ASSOCIATION OF REALTORS**


BACKGROUND

1) On 13 May 2014, Mediative Limited (hereinafter the applicant) applied to register the trade mark shown on the front page in respect of the following services in class 38: Online property portal network site; Providing an online property portal network site; Online property portals; Internet portal services; Provision of telephone directory services; Provision of telephone directory information; Provision of telephone directory information to assist in telecommunications; Provision of telephone directory information to subscribers.

2) The application was examined and accepted, and subsequently published for opposition purposes on 20 June 2014 in Trade Marks Journal No.2014/026.

3) On 22 September 2014 the National Association of Realtors (hereinafter the opponent) filed a notice of opposition. The grounds of opposition are in summary:

a) The opponent is the proprietor of the following trade mark:

Mark	Number	Date of application / registration	Class	Specification relied upon
REALTOR	CTM 1390855	18.11.99 13.05.08	35	Compilation and systematization of information into computer databases;
			36	Real estate services, including brokerage, management, appraisal, sale and rental of real estate, and advisory and consulting services relating to real estate; provision of information relating to real estate; land use consulting services; dissemination of news, analysis, features and information relating to real estate; provision of data relating to sales of homes and other real estate; provision of the aforesaid services over the Internet or through a computer network or other communications network.
			42	Providing an on-line interactive computer data base in the field of real estate information; provision of information (not included in other classes) provided on-line from a computer data base by means of web pages on the Internet, or via computer network, other communications network; association services, including real estate trade association services and services promoting the interests of real estate agents and brokers, and services relating to membership in an association of real estate professionals; services relating to membership in a organization of the real estate industry.
	CTM 1467760	20.01.00 20.08.01	36	Real estate services, including brokerage, management, appraisal, sale and rental of real estate, and advisory and consulting services relating to real estate; provision of information relating to real estate; dissemination of news, analysis, features

				and information relating to real estate; provision of data relating to sales of homes and other real estate; providing information and support services to members of an organisation of real estate brokers and real estate professional relating to their activities in the real estate industry, including development of standards of conduct, research and analysis about real estate and business conditions affecting real estate, news about recent legislation relating to real estate, and provision of standardised forms relating to real estate transactions; provision of the aforesaid services over the Internet or through a computer network or other communications network.
			42	Providing an online interactive computer data base in the field of real estate information; association services, namely real estate trade association services and services promoting the interests of real estate agents, brokers and professionals;

b) The opponent contends that it has used its marks in the UK since January 1994; that the mark in suit is confusingly similar to its registered trade marks and that the services are similar or identical. There is therefore a likelihood of confusion and that the mark in suit therefore offends against section 5(2)(b).

c) The opponent also contends that as a result of the substantial goodwill and reputation it has accrued in its marks that use of the mark in suit would be detrimental to its marks as the opponent would have no control over the quality of the service offered by the applicant and this could have a negative impact on the reputation of the opponent. In addition use of the mark in suit will cause dilution to the distinctive character of the opponent's marks. Further the applicant will be able to take unfair advantage of the opponent's goodwill and reputation by trading off its marketing coat tails. The mark in suit therefore offends against section 5(3) of the Act.

d) The mark in suit is similar to the opponent's marks and as such the average consumer will be deceived as to from where the services originate. The opponent will suffer damage as a result of loss of sales and a negative effect to its goodwill and reputation. The mark in suit therefore offends against section 5(4)(a) of the Act.

4) On 24 November 2014, the applicant filed a counterstatement. It basically denies all the grounds of opposition, but puts the opponent to proof of use of its marks.

5) Only the opponent filed evidence. Both parties seek an award of costs in their favour. The matter came to be heard on 24 August 2015 when the opponent was represented by Ms Scott of Counsel instructed by Messrs D Young & Co. LLP; the applicant was not represented and did not provide written submissions.

OPPONENT'S EVIDENCE

6) The opponent filed two witness statements. The first, dated 12 March 2015, is by Katherine Johnson the Senior Vice President and General Counsel of the opponent. She states that the

opponent is a company incorporated under the laws of Illinois and that she has worked for the opponent for seven years and resides in Illinois. She states:

“16. The opponent is well known across the UK to individuals and estate agents as the “go to” association regarding purchasing a property in the USA, and it is often referenced in the press in the UK. Please find examples of just some articles that reference the opponent at exhibit 17.

17. The opponent’s trade marks are recognised amongst UK estate agents as signifying the opponent. The opponent collaborates with the National Association of Estate Agents (the NAEA). NAEA is the UK’s leading professional body for estate agents. In 1994, the opponent entered into a formal association with NAEA for joint promotional activities in the UK such as promoting each other’s conferences. The NAEA is also listed on the “profile of the United Kingdom” page on www.realtor.org; please find a print out of that page at exhibit 18.”

7) From her statement I take the following:

- The opponent is a trade association for those engaged in all aspects of the residential and commercial real estate industry. It has used its trade marks shown above in the UK since 1994 to identify members of the association. No use of the term REALTOR predates the creation of the association.
- Only members of the association are licensed to use the term.
- The opponent maintains a website which lists property worldwide which has been available in the UK since 2001. The opponent also owns a number of domain names which incorporate the word REALTOR, which are accessible from the UK. In addition to viewing the website consumers in the UK can order a copy of the REALTOR magazine; no details such as the number of requests by UK consumers serviced are provided. The opponent states that all UK members receive the magazine. Details of the thirty- five UK members are provided at exhibit 11. These members can attend training courses, in the USA, to become Certified International Property Specialists (CIPS). The UK members identified appear to be estate agents in the UK who display the CIPS mark when selling property abroad to UK consumers.
- The opponent runs approximately seven CIPS courses in the UK per annum. The materials used on these courses carry the trade mark 1467760. The opponent advertises these courses in the UK.

8) The second witness statement, dated 25 March 2015, is by Mark Hayward the Managing Director of the National Association of Estate Agents (NAEA) a position he has held for two years. He is also currently on the Board of The International Consortium of Real Estate Associations; he represents NAEA on the Board of The Property Ombudsman and is part of the Money Laundering Advisory Committee. He was previously President of NAEA and Chairman of the Board of the National Federation of Property Professionals (NFoPP). He states that due to his experience and also the association between NAEA and the opponent, he is aware of their activities in the UK. He states that the NAEA entered into a bilateral collaboration in 1994. This includes initiating and hosting trade missions, coordinating and promoting products, services and educational courses offered by the respective associations and promoting and protecting trade marks. As part of this agreement members of NAEA sit as directors on the opponent’s Board. Their role is to update the opponent on the UK market and following board meetings to update members of NAEA on information received.

He states that the opponent is well known to members of the NAEA, as the various collaborative events are reported upon in the property magazine *Property Professionals*. He states:

“10. ... Should a UK individual come to a member of the NAEA with a view to buying property in the US they would certainly direct them to the opponent and explain that estate agents in the US are highly likely to be a member of the opponent. Members of NAEA are aware that the opponent is the largest organisation in the US for letting and sales, and would certainly look to them should any person in the UK be considering buying or renting property in the US. They are very much known and appreciated by our members for their high standards and organisation.”

9) That concludes my summary of the evidence filed, insofar as I consider it necessary.

DECISION

10) I turn first to the ground of opposition based on section 5(2)(b) which 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.”

11) An “earlier trade mark” is defined in section 6, the relevant part of which states:

“6.-(1) In this Act an "earlier trade mark" means -

(a) a registered trade mark, international trade mark (UK) or Community trade mark which has a date of application for registration earlier than that of the trade mark in question, taking account (where appropriate) of the priorities claimed in respect of the trade marks.”

12) The opponent is relying upon its two trade marks listed in paragraph 3 above which are clearly earlier trade marks. In the counterstatement the applicant indicated that it required proof of use but did not specify which marks (or services) were covered by this request. The Registry wrote seeking a revised TM8 providing specifics in respect of the proof of use request, however no reply was received. The Registry therefore informed both parties that the opposition would go ahead but without the opponent having to provide proof of use. I proceed on this basis.

13) When considering the issue under section 5(2)(b) I take into account the following principles which are gleaned from the decisions of the EU courts in *Sabel BV v Puma AG*, Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, *Matratzen Concord GmbH v OHIM*, Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C-120/04, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P and *Bimbo SA v OHIM*, Case C-591/12P.

- (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 be dominated by one or more of its components;
- (f) however, it is also 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 creates a risk that the public will 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 and the nature of the purchasing decision

14) As the case law above indicates, it is necessary for me to determine who the average consumer is for the respective parties' services; I must then determine the manner in which these services are likely to be selected by the average consumer in the course of trade. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J. described the average consumer in these terms:

“60. The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably

circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The words “average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median.”

15) I must now determine the average consumer for the services of the parties. Neither party has commented upon this aspect, therefore I will have to make the best of it I can. The contested services relate to the provision of information regarding properties. Whether one is looking for a property to buy or to sell the choice will usually be made visually with the initial selection made from a website or an advertisement therefore the initial selection will be mainly visual. However, word of mouth recommendation will also play a part and so aural considerations cannot be overlooked. Properties are bought and sold by the general public including businesses. For those selling a property the choice of agent could be crucial and so they will take great care in the selection. Someone buying a property may not be quite so concerned about the agent, although a degree of care will be taken simply because of the size of the financial commitment and the fact that the agent will be privy to confidential information. As such whether buying or selling the average consumer will take a medium to high degree of care in selecting the agent/website where the property is advertised. With regard to the telephone directory services again selection will be mostly visual. If one is seeking to be included in a directory, such as a business, then care will be taken in choosing the correct directory in order to get the widest spread of potential customers for the fee charged. When using a phone directory little care will be taken as one is simply looking for a phone number of a known individual/business or possibly simply a company engaged in a particular trade etc. For phone services the care taken will range from low to medium.

Comparison of services

16) In the judgment of the CJEU in *Canon*, Case C-39/97, the court stated at paragraph 23 of its judgment that:

“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”.

17) The relevant factors identified by Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, for assessing similarity were:

- a) The respective users of the respective goods or services;
- b) The physical nature of the goods or acts of services;
- c) The respective trade channels through which the goods or services reach the market;
- d) 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;
- e) 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.

18) I also take into account the comments of Jacob J. in *Avnet Incorporated v. Isoact Ltd* [1998] FSR 16 where he said:

“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.”

19) I also note the judgment of Mr Justice Floyd in *YouView TV Limited v Total Limited* where he stated:

“..... Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise: see the observations of the CJEU in Case C-307/10 *The Chartered Institute of Patent Attorneys (Trademarks) (IPTRANSLATOR)* [2012] ETMR 42 at [47]-[49]. Nevertheless the principle should not be taken too far. *Treat* was decided the way it was because the ordinary and natural, or core, meaning of "dessert sauce" did not include jam, or because the ordinary and natural description of jam was not "a dessert sauce". Each involved a straining of the relevant language, which is incorrect. Where words or phrases in their ordinary and natural meaning are apt to cover the category of goods in question, there is equally no justification for straining the language unnaturally so as to produce a narrow meaning which does not cover the goods in question.”

20) In the following comparison I have used the specification for the opponent’s mark CTM 1390855 which is the opponent’s strongest case. For ease of reference the services of the two parties are as follows:

Applicant’s services	Opponent’s services
38: Online property portal network site; Providing an online property portal network site; Online property portals; Internet portal services; Provision of telephone directory services; Provision of telephone directory information; Provision of telephone directory information to assist in telecommunications; Provision of telephone directory information to subscribers.	Class 35: Compilation and systematization of information into computer databases;
	Class 36: Real estate services, including brokerage, management, appraisal, sale and rental of real estate, and advisory and consulting services relating to real estate; provision of information relating to real estate; land use consulting services; dissemination of news, analysis, features and information relating to real estate; provision of data relating to sales of homes and other real estate; provision of the aforesaid services over the Internet or through a computer network or other communications network.
	Class 42: Providing an on-line interactive computer data base in the field of real estate information; provision of information (not included in other classes) provided on-line from a computer date base by means of web pages on the Internet, or via computer network, other communications network; association services, including real estate trade association services and services promoting the interests of real estate agents and brokers, and services relating to membership in an association of real estate professionals; services relating to membership in a organization of the real estate industry.

21) To my mind the applicant’s services of “Online property portal network site; Providing an online property portal network site; Online property portals; Internet portal services;” are similar to a medium degree to the opponent’s services in Class 35 “Compilation and systematization of information into computer databases”; the class 36 services of “provision of the aforesaid services over the Internet or

through a computer network or other communications network” and also the class 42 services of “Providing an on-line interactive computer data base in the field of real estate information”. All the services relate to the storage and provision of information via computer systems.


22) I also believe that the applicant’s services of “Provision of telephone directory services; Provision of telephone directory information; Provision of telephone directory information to assist in telecommunications; Provision of telephone directory information to subscribers” are similar to a medium degree to the opponent’s services of “provision of information (not included in other classes) provided on-line from a computer data base by means of web pages on the Internet, or via computer network, other communications network” in class 42. Again the service of both parties cover the storage of information and its provision.

Comparison of trade marks

23) It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by them, bearing in mind their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in *Case C-591/12P, Bimbo SA v OHIM*, that:

“.....it is necessary to ascertain, in each individual case, the overall impression made on the target public by the sign for which registration is sought, by means of, inter alia, an analysis of the components of a sign and of their relative weight in the perception of the target public, and then, in the light of that overall impression and all factors relevant to the circumstances of the case, to assess the likelihood of confusion.”

24) It would be wrong, therefore, artificially to dissect the trade marks, although, it is necessary to take into account their distinctive and dominant components and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions created by them. The trade marks to be compared are:

Opponent’s trade mark	Applicant’s trade mark
REALTOR	

25) In *Kurt Geiger v A-List Corporate Limited*, BL O-075-13, Mr Iain Purvis Q.C. as the Appointed Person pointed out that the level of ‘distinctive character’ is only likely to increase the likelihood of confusion to the extent that it resides in the element(s) of the marks that are identical or similar. He said:

“38. The Hearing Officer cited *Sabel v Puma* at paragraph 50 of her decision for the proposition that ‘the more distinctive it is, either by inherent nature or by use, the greater the likelihood of confusion’. This is indeed what was said in *Sabel*. However, it is a far from complete statement which can lead to error if applied simplistically.

39. It is always important to bear in mind what it is about the earlier mark which gives it distinctive character. In particular, if distinctiveness is provided by an aspect of the mark which has no counterpart in the mark alleged to be confusingly similar, then the distinctiveness will not increase the likelihood of confusion at all. If anything it will reduce it.’

40. In other words, simply considering the level of distinctive character possessed by the earlier mark is not enough. It is important to ask ‘in what does the distinctive character of the earlier mark lie?’ Only after that has been done can a proper assessment of the likelihood of confusion be carried out”.

26) However the independent and distinctive element does not need to be identical. In *Bimbo SA v OHIM*, Case T-569/10, the General Court held that:

“96. According to the case-law, where goods or services are identical there may be a likelihood of confusion on the part of the public where the contested sign is composed by juxtaposing the company name of another party and a registered mark which has normal distinctiveness and which, without alone determining the overall impression conveyed by the composite sign, still has an independent distinctive role therein (Case C-120/04 *Medion* [2005] ECR I-8551, paragraph 37). There may also be a likelihood of confusion in a case in which the earlier mark is not reproduced identically in the later mark (see, to that effect, Joined Cases T-5/08 to T-7/08 *Nestlé v OHIM – Master Beverage Industries (Golden Eagle and Golden Eagle Deluxe)* [2010] ECR II-1177, paragraph 60).”

27) In *Aveda Corp v Dabur India Ltd* [2013] EWHC 589 (Ch), Arnold J. stated that:

“47. In my view the principle which I have attempted to articulate in [45] above is capable of applying where the consumer perceives one of the constituent parts to have significance independently of the whole, but is mistaken as to that significance. Thus in *Bulova Accutron* the earlier trade mark was ACCURIST and the composite sign was BULOVA ACCUTRON. Stamp J. held that consumers familiar with the trade mark would be likely to be confused by the composite sign because they would perceive ACCUTRON to have significance independently of the whole and would confuse it with ACCURIST.

48. On that basis, I consider that the hearing officer failed correctly to apply *Medion v Thomson*. He failed to ask himself whether the average consumer would perceive UVEDA to have significance independently of DABUR UVEDA as a whole and whether that would lead to a likelihood of confusion.”

28) The opponent’s mark is a single word and therefore its distinctiveness lies within the whole. The opponent’s mark appears in full in the applicant’s mark. The applicant’s mark also contains a device element of an image of a house in a bubble or balloon. To my mind the device element informs the average consumer that the services are connected to housing. However, the word REALTOR is an invented word and thus is the distinctive and dominant element of the applicant’s mark. Although in the dictionary, the definition refers to the accreditation and the fact that it is a trade mark. There is a high level of visual similarity whilst aurally and conceptually the marks are identical.

Distinctive character of the earlier trade mark

29) In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*, Case C-342/97 the CJEU stated that:

“22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-0000, paragraph 49).

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51).”

30) The opponent’s mark consists of a single invented word. The distinctiveness lies within its whole. The opponent’s earlier trade mark is possessed of a high degree of inherent distinctive character. The opponent has filed scant evidence of the use it has made of its earlier trade mark in the UK and the opponent cannot benefit from enhanced distinctiveness through use.

Likelihood of confusion

31) In determining whether there is a likelihood of confusion, a number of factors need to be borne in mind. The first is the interdependency principle i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective services and vice versa. As I mentioned above, it is also necessary for me to keep in mind the distinctive character of the opponent’s trade mark as the more distinctive this trade mark is, the greater the likelihood of confusion. I must also keep in mind the average consumer for the services, the nature of the purchasing process and the fact that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them he has retained in his mind. Earlier in this decision, I concluded that:

- the average consumer is a member of the general public, including businesses, who will select the services by predominantly visual means and who will pay a medium to high degree of care when doing so;
- the competing services are similar to a medium degree;
- the competing trade marks are visually similar to a high degree, whilst aurally and conceptually the marks are identical.
- the opponent’s earlier trade mark is possessed of a high degree of inherent distinctive character, but has not shown that it can benefit from an enhanced distinctiveness by the use made of it in the United Kingdom.

32) In view of the above and allowing for the concept of imperfect recollection, there is a likelihood of consumers being confused into believing that the services provided by the applicant are those of the opponent or provided by some undertaking linked to them. **The opposition under Section 5(2) (b) therefore succeeds in total.**

33) Given the above finding I decline to consider the other grounds of opposition.

CONCLUSION

34) The opponent has succeeded in its opposition under Section 5(2)(b).

COSTS

35) As the opponent has been successful it is entitled to a contribution towards its costs. The opponent sought costs off the scale due to the applicant's lack of participation in the case after filing its counterstatement. The applicant did not respond to letters from the opponent nor from the Registry and did not inform the Registry of its intention not to attend the hearing. However, the opponent was in a position to determine what evidence it filed in support of its case, and I would question the usefulness of much of it. Further, the opponent requested the hearing whereas a decision from the papers would have been a cheaper option. I therefore decline to award costs off the scale.

Preparing a statement and considering the other side's statement	£200
Expenses	£200
Preparing evidence	£600
Preparing for and attending a hearing	£800
TOTAL	£1,800

42) I order Mediative Limited to pay National Association of Realtors the sum of £1,800. This sum to be paid within fourteen days of the expiry of the appeal period or within fourteen days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 9th day of September 2015

**George W Salthouse
For the Registrar,
the Comptroller-General**