

O-004-19

**TRADE MARKS ACT 1994
IN THE MATTER OF
TRADE MARK APPLICATION NO 3237443
BY CAMBRIDGE FOOTBALL CLUB
TO REGISTER**



**AS A TRADE MARK
IN CLASSES 25 & 41
AND OPPOSITION THERETO (UNDER NO. 410340)
BY
THE CHANCELLOR, MASTERS AND SCHOLARS OF THE UNIVERSITY OF
CAMBRIDGE**


Background & pleadings



1. Cambridge Football Club ('the applicant') applied to register the mark outlined on the title page on 14 June 2017. The mark was published on 23 June 2017 in the Trade Marks Journal for the following goods and services:

Class 25: Clothing; Footwear

Class 41: Sporting education services

2. The Chancellor, Masters and Scholars of the University of Cambridge ('the opponents') oppose the application on the ground of section 5(2)(b) of the Trade Marks Act 1994 ('the Act') on the basis of the earlier trademarks set out below. The registered goods and services will be set out later in this decision. Initially the opponents pleaded additional grounds under section 5(3) and 5(4)(a) but these were subsequently withdrawn.

UK TM 3015609 Filing Date: 26 July 2013 Registration Date: 4 September 2015	CAMBRIDGE
EU TM 012019733 Filing Date: 26 July 2013 Registration Date: 29 August 2015	CAMBRIDGE
UK TM 3015610 Filing Date: 26 July 2013 Registration Date: 14 February 2014	 CAMBRIDGE
EU TM 896449 Filing Date: 4 August 1998 Registration Date: 7 March 2000	UNIVERSITY OF CAMBRIDGE

<p>UK TM 3000145</p> <p>Filing Date: 2 April 2013</p> <p>Registration Date: 16 August 2013</p>	<p>UNIVERSITY OF CAMBRIDGE</p>
<p>IR 1161887</p> <p>Date of protection in the EU: 15 April 2014</p> <p>Date of designation of the EU: 5 April 2013</p>	<p>UNIVERSITY OF CAMBRIDGE</p>
<p>EU TM 1771997</p> <p>Filing Date: 24 July 2000</p> <p>Registration Date: 3 September 2001</p>	
<p>EU TM 1884972</p> <p>Filing Date: 3 October 2000</p> <p>Registration Date: 3 December 2004</p>	

3. The opponent's trade mark nos. UK TM3015609, EU TM012019733, UK TM3015610 and IR EU1161887 are earlier marks, in accordance with section 6 of the Act, but have not been registered for five years or more at the publication date of the applicant's mark, so are not subject to the proof of use requirements, as per section 6A of the Act.

4. Whereas, the opponent's trade mark nos. EU TM896449, UK TM3000145, EU TM1771997 and EU TM1884972 are all earlier marks, in accordance with Section 6 of the Act but completed their registration procedure more than 5 years prior to the publication date of the applicant's mark, so they are subject to the proof of use

conditions, as per section 6A of the Act. The opponent made a statement of use in respect of all the goods and services it relies on. In its counterstatement the applicant ticked the “No” box in answer to question 7 of Form TM8 which states “Do you want the opponent to provide ‘proof of use’?”. Consequently, the opponent is entitled to rely on the full breadth of the goods and services for which it made a statement of use.

5. The applicant’s counterstatement denied the ground of opposition.

6. Neither party requested a hearing nor filed evidence. Only the opponents filed written submissions in lieu. These submissions will not be summarised but will be borne in mind. I now make this decision based on the papers before me.

7. In these proceedings, the applicant is representing itself and the opponents are represented by Stobbs IP.

Section 5(2)(b)

8. Section 5(2)(b) of the Act is as follows:

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

(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.

9. The leading authorities which guide me are from the Court of Justice of the European Union (‘CJEU’): *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.

The principles

- (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.

Comparison of goods and services

10. The case law relating to the comparison of goods and services is set out below. In *Canon*, the CJEU 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”.

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

The respective users of the respective goods or services;

- a) The physical nature of the goods or acts of services
- b) The respective trade channels through which the goods or services reach the market
- c) 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;
- d) 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 relation to the assessment of the respective specifications, I note that in *YouView TV Ltd v Total Ltd* [2012] EWHC 3158 (Ch), Floyd J. (as he then was) stated that:

"... 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) (IP TRANSLATOR)* [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."

13. In *Gérard Meric v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM Case T-133/05) ('Meric')*, the General Court ('GC') held:

"29 In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by the trade mark application (Case T-388/00 *Institut für Lernsysteme v OHIM – Educational Services (ELS)* [2002] ECR II-4301, paragraph 53) or when the goods designated by the trade mark application are included in a more general category designated by the earlier mark (Case T-104/01 *Oberhauser v OHIM – Petit Liberto (Fifties)* [2002] ECR II-4359, paragraphs 32 and 33; Case T-110/01 *Vedial v OHIM – France Distribution (HUBERT)* [2002] ECR II-5275, paragraphs 43 and 44; and Case T-10/03 *Koubi v OHIM – Flabesa (CONFORFLEX)* [2004] ECR II-719, paragraphs 41 and 42)."

14. The goods and services to be compared are set out below. The opponents' full specifications for the earlier marks are very long so it has identified the goods and services which it believes are identical to the applicant's goods and services. It is noted that the opponents' class 25 goods are registered under trade mark nos. EU TM896449, UK TM3000145, IR 1161887, EU TM1771997 and EU TM1884972 whilst the class 41 services are registered under UK 3015609, EU TM12019733, UK

TM3015610 and EU TM896449. Both the goods and services have been listed in the format below for ease of comparison.

Opponent's goods & services	Applicant's goods & services
25: Clothing; footwear;	25: Clothing; footwear.
41: Education; sporting and cultural activities; club services [entertainment or education]; coaching [training]; physical education; sport camp services; teaching services; educational services; instruction services; provision of courses of instruction, lectures and seminars all relating to academic or vocational subjects; provision of recreational and sporting facilities.	41: Sporting education services.

15. Regarding class 25, I find that the opponents' goods *clothing; footwear* is self-evidently identical to *clothing; footwear* in the applicant's specification.

16. Turning to class 41, I find that *education* and *educational services* in the opponents' specification of services are broad enough to encompass all educational services including *sporting education* in the applicant's specification. I consider them to be identical on the *Meric* principle.

Average consumer and the purchasing act

17. I now consider who the average consumer is for the contested goods and services and how they are purchased. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purpose of assessing the likelihood of confusion, it must be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods or services in question: *Lloyd Schuhfabrik Meyer, Case C-342/97*.

18. 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.”

19. The average consumers for the contested goods and services are the general public. The goods can be sold in traditional bricks and mortar shops as well as online and through mail order. Whilst I do not discount word of mouth recommendations, the act of purchasing clothing and footwear will be a primarily visual process and will include factors such as aesthetics, functionality and fit in addition to the cost. In a retail premises, the average consumer will be viewing a range of physical goods and trying them on. In an online website or mail order catalogue, a consumer will be viewing images of the goods before selection. Given that, I conclude that they will be paying a reasonable degree of attention during the purchasing process. In relation to the contested services, I find that it will also be a visual purchase as the average consumer will be attending a sports education session in person and would be paying a reasonable degree of attention during the purchasing process.

Distinctiveness of the earlier marks

20. The distinctive character of the earlier marks must be considered. The more distinctive it is, either inherently or through use, the greater the likelihood of confusion (*Sabel BV v Puma AG*). 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).”

21. I note that the UK mark for ‘Cambridge’ solus was accepted for publication on the basis of having acquired distinctiveness through use. However, no claim has been made for enhanced distinctive character, nor has any evidence been filed in these proceedings, so I have only the inherent distinctiveness of the earlier ‘Cambridge’ marks to consider. These consist solely of a geographical location, Cambridge. Whilst geographical names can be registered as trade marks, these will not generally be considered as having the highest degree of distinctiveness. but I am guided in this matter by case law set out by the CJEU, again in the *Windsurfing Chiemsee* case. The criteria sets out the need to consider if the geographical location is likely to be regarded as the location of the service provision and the perception of those relevant consumers encountering the location when used as a trade mark. In this instance I find that average consumers will likely see the ‘Cambridge’ word marks as being the location for the provision of services. However, I recognise that a registered mark must be treated as having at least a minimum degree of

distinctiveness¹. In this case I find the two 'Cambridge' marks to be weakly distinctive for their class 41 services.

22. Turning to the 'University of Cambridge' marks, in relation to goods and services provided by a university, I would also categorise this as averagely distinctive for the whole. With regard to the remainder of the 'Cambridge' plus device marks, I find that the combinations of word and device are averagely distinctive in relation to the goods and services.

Comparison of the 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 the marks, bearing in mind their distinctive and dominant components. The Court of Justice of the European Union 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, to artificially dissect the trade marks, although, it is necessary to take into account the distinctive and dominant components of the marks and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions created by the marks.

25. The marks to be compared are:

¹ As per *Formula One Licensing BV v OHIM*, Case C-196/11P

Opponent's marks

Applicant's mark

UK TM3015609 & EU TM12019733

CAMBRIDGE



UK TM3000145, EU TM896449 &
IR1161887

**UNIVERSITY OF
CAMBRIDGE**

UK TM3015610



EU TM1771997



EU TM1884972



CAMBRIDGE

26. The opponents' marks ending '609 and '733 consist of the word CAMBRIDGE in plain font and block capitals. The overall impression of the marks rests solely on that word. Clearly Cambridge is the name of a geographical location. As previously stated, marks consisting of geographical names are not automatically considered as non-distinctive but I find these marks to be only weakly distinctive.

27. The opponents' marks ending '449, '145 and '887 consist of the words UNIVERSITY OF CAMBRIDGE in plain font and block capitals. The words UNIVERSITY OF are non-distinctive for educational goods and services provided by, or with the consent of a university but become at least weakly distinctive with addition of the 'Cambridge' element. The overall impression of the marks and their distinctiveness rests entirely on these words in combination.

28. The opponents' mark ending '610 consists of a heraldic shield placed in front of the word CAMBRIDGE and of the same size as the word. The device element is not negligible within the mark and both the word and device elements make an equal contribution to the overall impression of the mark, albeit taking into account my previous remarks regarding the weakly distinctive 'Cambridge' word element.

29. The opponents' mark ending '997 consists of a pair of crossed oars and the word CAMBRIDGE in an Old English stylised font presented in the centre. The device element is not negligible within the mark and both the stylised word and device elements make an equal contribution to the overall impression of the mark albeit taking into account my previous remarks regarding the weakly distinctive 'Cambridge' word element.

30. The opponents' mark ending '972 consists of a large heraldic shield placed above the word CAMBRIDGE. The device element is larger in size than the word element and I would say, given its prominence in size and positioning, is the more dominant element within the overall impression of the mark and taking into account my previous remarks regarding the weakly distinctive 'Cambridge' word element.

31. The applicant's mark consists of a blue and white roundel with the device of a white seahorse on a blue background at its centre with the word CAMBRIDGE

curved above the device and the words FOOTBALL CLUB curved below the device. The device element is visually prominent within the mark and I consider it to be the dominant and most distinctive element. The words CAMBRIDGE FOOTBALL CLUB describe football club goods and services provided by, or with the consent of a football club in Cambridge. As there could be more than one of these, I consider these words to be weaker in distinctiveness comparison with the device element of the mark.

32. In a visual comparison, the point of similarity shared by all marks is the word element CAMBRIDGE. The opponents' marks ending '609 and '733 consist only of the word CAMBRIDGE and have no other aspect to them, the marks ending '449, '145 and '887 have the additional words UNIVERSITY OF and the remainder all have additional devices. In terms of differences the applicant has the additional words FOOTBALL CLUB, albeit I have already found that these words lack distinctiveness, and it has a prominent seahorse device. In the visual comparison of the marks, it is clear to me that the marks look very different from each other in their presentation. Taking this into account I find that there is a low degree of visual similarity between the contested marks as wholes.

33. Turning now to the aural comparison of the marks, the common element is again the word CAMBRIDGE. The device elements of any of the marks will not be verbalised. The aural differences for the applicant's mark and the opponent's marks ending '449, '145 and '887 are the additional words FOOTBALL CLUB and UNIVERSITY OF, both of which will be verbalised. Taking these factors into account I find there is a medium degree of aural similarity for those earlier marks which just contain the 'Cambridge' word element and a lower degree of aural similarity for the two earlier 'University of Cambridge' marks.

34. With regard to a conceptual comparison of the marks, the applicant's mark will bring to mind the concept of a football club in Cambridge. For the opponents' marks ending '449, '145 and '887, the immediate concept will be a university in Cambridge. For the remainder of the opponents' marks, the concept will be the geographical location of Cambridge, heraldic shields and crossed rowing oars. In as much as there is any conceptual similarity between the marks, it is clear that this will be

focussed on the geographical location of Cambridge. The device elements do not share a concept and a football club and a university are dissimilar notions. So overall I find the applicant's mark has a distinctly different conceptual hook to any of the opponents' marks. Taking all these factors into account, I find there is only a low degree of conceptual similarity based on the shared idea of Cambridge as a geographical location.

Likelihood of confusion

34. I now draw together my earlier findings into the global assessment of the likelihood of confusion, keeping in mind the following factors:

- a) 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-Meyer Inc*).
- b) The principle that the more distinctive the earlier mark is, the greater the likelihood of confusion (*Sabel BV v Puma AG*).
- c) 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 BV*).

35. Confusion can be direct (when the average consumer mistakes one mark for the other) or indirect (where the average consumer realises the marks are not the same but puts the similarity that exists between the marks/goods down to the responsible undertakings being the same or related). In terms of indirect confusion, this was dealt with by Mr Iain Purvis QC, sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc*, Case BL-O/375/10 where he noted that:

“16. Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different from the earlier mark. It therefore requires a mental

process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: “The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark”.

36. Whereas in *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17, Mr James Mellor Q.C., also sitting as the Appointed Person, stressed that a finding of indirect confusion should not be made merely because the two marks share a common element. In this connection, he pointed out that it is not sufficient that a mark merely calls to mind another mark. This is mere association not indirect confusion.

37. I am also guided by the comments in *Kurt Geiger v A-List Corporate Limited*, BL O-075-13, where Mr Iain Purvis Q.C. again sitting 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.”

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.

38. So far I have established that the contested goods and services are identical. In addition, I found that the average consumer is a member of the general public who will select the goods and services in a primarily visual purchasing process whilst paying a reasonable degree of attention. I also found that the earlier word marks containing ‘Cambridge’ solus are weakly distinctive and those marks containing ‘University of Cambridge’ are weakly distinctive for goods and services provided by a university in Cambridge. Whereas the remaining ‘Cambridge’ plus device marks have an average level of distinctiveness.

39. With regard to the comparison of the marks, I have found that they are visually similar to a low degree and aurally similar to a medium degree for those earlier marks which contain only the ‘Cambridge’ word element and similar to a low degree for the two earlier ‘University of Cambridge’ marks. For the conceptual comparison, I found the marks were conceptually similar to a low degree for the shared word element CAMBRIDGE but otherwise had different conceptual hooks.

40. Taking these factors into account, I do not find that there is direct confusion between the applicant’s mark and any of the opponent’s eight earlier marks. Having only found a low degree of visual similarity, in a primarily visual purchasing process, I do not think that an average consumer would mistake one mark for another. There are too many visual differences between the applicant’s mark and opponent’s marks for a consumer to be directly confused.

41. When turning to the question of indirect confusion, I must consider the distinctive strength of the shared word element, Cambridge, and I have already found that this word is weakly distinctive. The device elements, i.e. the heraldic shields and crossed oars, which give three of the opponent’s earlier marks a greater distinctiveness have no similarity to the applicant’s mark. I have found that the opponents’ two ‘University of Cambridge’ marks have a different conceptual hook to the applicant’s mark. Lastly, I have found that ‘Cambridge’ solus has a lower than average level of distinctiveness and on the guidance given in the *Kurt Geiger* extract

above, it follows that there is less probability of indirect confusion. I am reassured in my conclusion that the *Duebros* guidance is also applicable here, namely that although an average consumer may see the shared element, Cambridge, and bring another mark to mind, this is merely association of the same geographical location and not indirect confusion.

Conclusion

42. The opposition fails under section 5(2)(b).

Costs

43. The applicant has been successful and is therefore, in principle, entitled to a contribution towards its costs. As the applicant is unrepresented, at the conclusion of the evidence rounds the tribunal invited it, in their letter dated 19 June 2018, to indicate whether it wished to make a request for an award of costs, and if so, to complete a pro-forma including a breakdown of actual costs, including providing accurate estimates of the number of hours spent on a range of given activities relating to the defence of the opposition; it was made clear to the applicant that if the pro-forma was not completed “no costs will be awarded”. The applicant did not respond to that invitation. Consequently, I make no order as to costs.

Dated this 3rd day of January 2019

June Ralph

For the Registrar

The Comptroller-General