

O-170-19

TRADE MARKS ACT 1994
IN THE MATTER OF APPLICATION No. 3262304
BY JAMES DUNCAN ABBOTT
TO REGISTER THE SERIES OF TWO TRADE MARKS
MONT BLANC WHISKY
MONT BLANC WHISKIES
IN CLASS 33

AND

IN THE MATTER OF OPPOSITION
THERE TO UNDER No. 412127 BY
ALPES MARQUES

AND

IN THE MATTER OF CONSOLIDATED APPLICATIONS
Nos. 502007 & 501863
BY JAMES DUNCAN ABBOTT

FOR REVOCATION OF TRADE MARK
Nos. W0705247 & UK 2620639
STANDING IN THE NAME OF
ALPES MARQUES

BACKGROUND

1) On 9 October 2017, James Duncan Abbott (hereinafter JDA) applied to register the series of two trade marks MONT BLANC WHISKY / MONT BLANC WHISKIES in respect of the following goods in Class 33: Whiskies.

2) The application was examined and accepted, and subsequently published for opposition purposes on 5 January 2018 in Trade Marks Journal No.2018/001. The applicant claimed a priority date of 31 August 2017 due to French registration 174385423.

3) On 5 April 2018 Alpes Marques (hereinafter AM) filed a notice of opposition. The opponent is the proprietor of the following trade mark:

Mark	Number	Dates of registration and designation in UK	Class	Specification
MONT BLANC	IR 705247	15.12.98 17.07.04	32	Beers

4) The grounds of opposition are in summary:

- a) AM contends that the mark applied for and its mark are similar and that the goods applied for are similar to those for which its mark is registered. As such it contends that the application offends against Section 5(2)(b) of the Act.
- b) AM contends that it has reputation in the UK since 2014 in respect of the sign BRASSERIE DU MONT BLANC in respect of beer. Use of the mark in suit would result in misrepresentation as both goods (whisky and beer) are alcoholic beverages. As such it contends that the application offends against Section 5(4)(a) of the Act.

5) On 14 June 2018 JDA filed a counterstatement which denies that the goods are similar and puts AM to proof of use.

6) In addition to the mark shown at paragraph 3 above, the following trade mark is also registered in the name of AM.

Mark	Number	Dates of filing & registration	Class	Specification
MONT BLANC Whisky	UK 2620639	10.05.12 05.10.12	33	Alcoholic beverages, whiskies.

7) By an application dated 6 November 2017 JDA applied to revoke application 2620639 under the provisions of Section 46(1)(a) claiming there has been no use of the trade mark on the goods for which it is registered in the five year period 6 October 2012 – 5 October 2017, revocation is sought from 6 October 2017. Notice of the intention to file a revocation action was provided. By an application dated 8 March 2018 JDA applied to revoke application IR705247 under the provisions of Section 46(1)(a) & 46(1)(b) claiming there has been no use of the trade mark on the goods for which it is registered in the five year period 18 July 2004 – 17 July 2009 & 6 March 2013 – 5 March 2018, revocation is sought from 18 July 2009 or 6 March 2018. Notice of the intention to file a revocation action was provided.

8) AM provided two counterstatements, dated 9 January 2018 & 23 May 2018, stating that it has used both marks upon “beer” in the UK since 2007.

9) Only AM filed evidence; both parties seek an award of costs in their favour. Neither side wished to be heard, although AM filed written submissions which will be referred to as and when necessary.

AM's Evidence

10) AM filed three witness statements. The first two, dated 9 March 2018 & 25 August 2018 are by Sylvain Chiron the sole Director. Mr Chiron states that he set up Brasserie Distillerie du Mont Blanc in 1998 with a view to setting up a brewery (brasserie) and distillery (distillerie). Alpes Marques was set up in 2001 to hold the intellectual property rights of Mr Chiron's

companies and use of the MONT BLANC brand is via a formal licence between the two companies. He states that to date, his company has sold over 10 million bottles of beer in 20 countries including the UK. He claims that it is logical to start with beer and then move onto whisky as “whisky is a special beer that is distilled and aged in barrels”. He states that the building of a distillery was discussed in July 2016, and the first barrel ordered in March 2017. As the company does not have an operational still he states they had 4,500 litres distilled by Ninkasi distillery in June 2017. In October 2017 he claims a short film was released on Youtube introducing the whisky to the world. He states that the film was in French but the Facebook version had English subtitles. Many of the exhibits are in French and although some have a translation attached it is clear that it has not been produced by a professional translator as much of the English used is incorrect. He provides the following exhibits:

- SXC3: Two pages, presumably from the website of the company which shows two types of beer being sold “La blanche” and “La rousse”
- SXC4: This consists of a number of invoices. However, as these have been duplicated in exhibit SXC22 along with additional invoices I shall summarise them one under SXC22.
- SXC8: An invoice dated 15 March 2017 for one (1) 200 litre barrel.
- SXC14: An invoice for 2,160 Euros from Ninkasi distillery in relation to 4,500 litres of “wash” dated 6 June 2017.
- SXC18: This shows that the company was a finalist in the 2006 Tesco drinks award in relation to its Brasserie du Mont Blanc beer.
- SXC21: A price list sent to AM’s UK representative, providing him with a price list for MONT BLANC beers for 2013. This shows beers in two sizes of bottle (33cl and 75cl) as well as kegs.

- SXC22: This consists of a number of invoices. It includes all the invoices which were earlier submitted at exhibit SXC4. All invoices are headed “BRASSERIE DU MONT BLANC” and refer to goods as Blonde du Mont Blanc or Rousse Du Mont Blanc etc. Brief details are as follows:

Date	Company	Location	Total€
01.08.05 *	<i>Mallards</i>	<i>Norfolk</i>	1,049
03.11.10 *	<i>Henri Fine Food</i>	<i>Edinburgh</i>	1,193
20.02.13 *	<i>Bubbles Wines</i>	<i>London</i>	1,099
29.05.13	Biercraft	London	1,958
03.03.14	Bubbles Wines	London	1,119
10.03.14	Henri Fine Food	Edinburgh	1,510
12.05.14	Biercraft	London	2,933
23.07.14	Henri Fine Food	Edinburgh	1,469
15.09.14	Biercraft	London	139
30.09.14	Biercraft	London	2,793
27.10.14	Henri Fine Food	Edinburgh	1,048
12.02.15	Henri Fine Food	Edinburgh	1,152
16.02.15	Bubbles Wines	London	1,650
20.02.15	Biercraft	London	3,292
19.06.15	Biercraft	London	2,822
26.10.15	Henri Fine Food	Edinburgh	1,115
18.11.15	Biercraft	London	2,822
29.02.16	Bubbles Wines	London	1,080
29.02.16	Biercraft	London	2,851
12.05.16	Biercraft	London	4,276
23.05.16	Biercraft	London	4,276
22.06.16	Henri Fine Food	Edinburgh	1,039
30.06.16	Biercraft	London	3,338
29.07.16	Bubbles Wines	London	1,174

25.11.16	Biercraft	London	2,970
23.03.17	Bubbles Wines	London	1,474
03.04.17	Biercraft	London	2,985
23.11.17	Bubbles Wines	London	1,196
08.01.18	Biercraft	London	2,934

*outside relevant period

- SXC26: Webpages from three UK retailer's websites. All are dated 23 August 2018 (after the relevant date).

11) The third witness statement, dated 7 March 2018, is by James Stuart Allan Jeffray, a retired solicitor and former director at Drambuie Liquor Company between 1996 and 2005. He states that he was commissioned by Mr Chiron to find a master blender who could advise on the setting up of a distillery in France. During August and September 2017 he had a total of seven meetings with individuals involved in distilling in the UK. He does not provide an outcome from these meetings.

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

DECISION

13) The revocation actions are based upon section 46(1)(a) & (b) which reads as follows:

“Section 46(1) of the Act states that:

“The registration of a trade mark may be revoked on any of the following grounds-

(a) that within the period of five years following the date of completion of the registration procedure it has not 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, and there are no proper reasons for non-use;

(b) that such use has been suspended for an uninterrupted period of five years, and there are no proper reasons for non-use;

(c).....

(d).....

(2) For the purpose of subsection (1) 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, and use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.

(3) The registration of a trade mark shall not be revoked on the ground mentioned in subsection (1)(a) or (b) if such use as is referred to in that paragraph is commenced or resumed after the expiry of the five year period and before the application for revocation is made: Provided that, any such commencement or resumption of use after the expiry of the five year period but within the period of three months before the making of the application shall be disregarded unless preparations for the commencement or resumption began before the proprietor became aware that the application might be made.

(4) An application for revocation may be made by any person, and may be made to the registrar or to the court, except that –

(a) if proceedings concerning the trade mark in question are pending in the court, the application must be made to the court; and

(b) if in any other case the application is made to the registrar, he may at any stage of the proceedings refer the application to the court.

(5) Where grounds for revocation exist in respect of only some of the goods or services for which the trade mark is registered, revocation shall relate to those goods or services only.

6) Where the registration of a trade mark is revoked to any extent, the rights of the proprietor shall be deemed to have ceased to that extent as from –

(a) the date of the application for revocation, or

(b) if the registrar or court is satisfied that the grounds for revocation existed at an earlier date, that date.”

14) Section 100 is also relevant, which reads:

“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.”

15) The revocation actions were filed on 6 November 2017 (2620639) and 8 March 2018 (IR705247) with revocation sought under Section 46(1)(a) & (b) as follows:

a) there has been no use of mark 2620639 in the five year period 6 October 2012- 5 October 2017 and under section 46(1)(a) revocation is sought as of 6 October 2017.

b) there has been no use of mark IR 705247 during the five year periods 18 July 2004 – 17 July 2009 or 6 March 2013 – 5 March 2018 and so under sections 46(1)(a) & 9b) revocation is sought as of 18 July 2009 or 6 March 2018.

16) In determining whether AM has used its trade marks I take into account the case of *The London Taxi Corporation Limited v Frazer-Nash Research Limited & Ecotive Limited*, [2016] EWHC 52, where Arnold J. summarised the case law on genuine use of trade marks. He said:

“I would now summarise the principles for the assessment of whether there has been genuine use of a trade mark established by the case law of the Court of Justice, which

also includes Case C-442/07 *Verein Radetsky-Order v Bunderversammlung Kamaradschaft 'Feldmarschall Radetsky'* [2008] ECR I-9223 and Case C-609/11 *Centrotherm Systemtechnik GmbH v Centrotherm Clean Solutions GmbH & Co KG* [EU:C:2013:592], [2014] ETMR 7, as follows:

(1) Genuine use means actual use of the trade mark by the proprietor or by a third party with authority to use the mark: *Ansul* at [35] and [37].

(2) The use must be more than merely token, that is to say, serving solely to preserve the rights conferred by the registration of the mark: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Centrotherm* at [71]; *Leno* at [29].

(3) The use must be consistent with the essential function of a trade mark, which is to guarantee the identity of the origin of the goods or services to the consumer or end user by enabling him to distinguish the goods or services from others which have another origin: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Silberquelle* at [17]; *Centrotherm* at [71]; *Leno* at [29].

(4) Use of the mark must relate to goods or services which are already marketed or which are about to be marketed and for which preparations to secure customers are under way, particularly in the form of advertising campaigns: *Ansul* at [37]. Internal use by the proprietor does not suffice: *Ansul* at [37]; *Verein* at [14]. Nor does the distribution of promotional items as a reward for the purchase of other goods and to encourage the sale of the latter: *Silberquelle* at [20]-[21]. But use by a non-profit making association can constitute genuine use: *Verein* at [16]-[23].

(5) The use must be by way of real commercial exploitation of the mark on the market for the relevant goods or services, that is to say, use in accordance with the commercial *raison d'être* of the mark, which is to create or preserve an outlet for the goods or services that bear the mark: *Ansul* at [37]-[38]; *Verein* at [14]; *Silberquelle* at [18]; *Centrotherm* at [71].

(6) All the relevant facts and circumstances must be taken into account in determining whether there is real commercial exploitation of the mark, including: (a) whether such use is viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods and services in question; (b) the nature of the goods or services; (c) the characteristics of the market concerned; (d) the scale and frequency of use of the mark; (e) whether the mark is used for the purpose of marketing all the goods and services covered by the mark or just some of them; (f) the evidence that the proprietor is able to provide; and (g) the territorial extent of the use: *Ansul* at [38] and [39]; *La Mer* at [22]-[23]; *Sunrider* at [70]-[71], [76]; *Centrotherm* at [72]-[76]; *Reber* at [29], [32]-[34]; *Leno* at [29]-[30], [56].

(7) Use of the mark need not always be quantitatively significant for it to be deemed genuine. Even minimal use may qualify as genuine use if it is deemed to be justified in the economic sector concerned for the purpose of creating or preserving market share for the relevant goods or services. For example, use of the mark by a single client which imports the relevant goods can be sufficient to demonstrate that such use is genuine, if it appears that the import operation has a genuine commercial justification for the proprietor. Thus there is no *de minimis* rule: *Ansul* at [39]; *La Mer* at [21], [24] and [25]; *Sunrider* at [72]; *Leno* at [55].

(8) It is not the case that every proven commercial use of the mark may automatically be deemed to constitute genuine use: *Reber* at [32].”

17) I also look to *Awareness Limited v Plymouth City Council*, Case BL O/230/13, where Mr Daniel Alexander Q.C. as the Appointed Person stated that:

“22. The burden lies on the registered proprietor to prove use..... However, it is not strictly necessary to exhibit any particular kind of documentation, but if it is likely that such material would exist and little or none is provided, a tribunal will be justified in rejecting the evidence as insufficiently solid. That is all the more so since the nature and

extent of use is likely to be particularly well known to the proprietor itself. A tribunal is entitled to be sceptical of a case of use if, notwithstanding the ease with which it could have been convincingly demonstrated, the material actually provided is inconclusive. By the time the tribunal (which in many cases will be the Hearing Officer in the first instance) comes to take its final decision, the evidence must be sufficiently solid and specific to enable the evaluation of the scope of protection to which the proprietor is legitimately entitled to be properly and fairly undertaken, having regard to the interests of the proprietor, the opponent and, it should be said, the public.”

and further at paragraph 28:

“28. I can understand the rationale for the evidence being as it was but suggest that, for the future, if a broad class, such as “tuition services”, is sought to be defended on the basis of narrow use within the category (such as for classes of a particular kind) the evidence should not state that the mark has been used in relation to “tuition services” even by compendious reference to the trade mark specification. The evidence should make it clear, with precision, what specific use there has been and explain why, if the use has only been narrow, why a broader category is nonetheless appropriate for the specification. Broad statements purporting to verify use over a wide range by reference to the wording of a trade mark specification when supportable only in respect of a much narrower range should be critically considered in any draft evidence proposed to be submitted.”

18) I also note that in *Dosenbach-Ochsner Ag Schuhe Und Sport v Continental Shelf 128 Ltd*, Case BL 0/404/13, Mr Geoffrey Hobbs Q.C. as the Appointed Person stated that:

“21. The assessment of a witness statement for probative value necessarily focuses upon its sufficiency for the purpose of satisfying the decision taker with regard to whatever it is that falls to be determined, on the balance of probabilities, in the particular context of the case at hand. As Mann J. observed in *Matsushita Electric Industrial Co. v. Comptroller- General of Patents* [2008] EWHC 2071 (Pat); [2008] R.P.C. 35:

[24] As I have said, the act of being satisfied is a matter of judgment. Forming a judgment requires the weighing of evidence and other factors. The evidence required in any particular case where satisfaction is required depends on the nature of the inquiry and the nature and purpose of the decision which is to be made. For example, where a tribunal has to be satisfied as to the age of a person, it may sometimes be sufficient for that person to assert in a form or otherwise what his or her age is, or what their date of birth is; in others, more formal proof in the form of, for example, a birth certificate will be required. It all depends who is asking the question, why they are asking the question, and what is going to be done with the answer when it is given. There can be no universal rule as to what level of evidence has to be provided in order to satisfy a decision-making body about that of which that body has to be satisfied.

22. When it comes to proof of use for the purpose of determining the extent (if any) to which the protection conferred by registration of a trade mark can legitimately be maintained, the decision taker must form a view as to what the evidence does and just as importantly what it does not ‘show’ (per Section 100 of the Act) with regard to the actuality of use in relation to goods or services covered by the registration. The evidence in question can properly be assessed for sufficiency (or the lack of it) by reference to the specificity (or lack of it) with which it addresses the actuality of use.”

19) I first turn to consider the evidence in respect of mark IR 705247 **MONT BLANC** which is registered for beers in class 32. The later of the two five year periods covers 6 March 2013 – 5 March 2018. The evidence of AM regarding the sale of beer in the UK is very poor, and consists of just a few invoices which had no explanation attached, but had to be read in conjunction with various other exhibits in order to make sense of what the invoices actually showed. One would have expected the witness statement to have provided such information as it should have been obvious to AM and its advisors that such explanation was required in respect of the names of products and size of bottles. As it is there are 26 invoices within the respective period showing sales of 55,415 Euros worth of beer over the period 29 May 2013- 8 January 2018. No overall figures for sales into the UK have been given and no details of any

advertising in the UK provided. **Despite the paucity of evidence I accept that the mark IR 705247 has been used on beer in the UK during the period ending 5 March 2018 and so the mark remains upon the register for the specification “beers”.**

20) I next turn to consider mark 2620639 **MONT BLANC** whisky which is registered for “alcoholic beverages, whiskies” in class 33. Clearly class 33 does not include beers which are in class 32. AM has claimed in its counterstatements that it has used the mark upon beer. Previously, I would have relied upon *Altecnic Ltd’s Application* [2001] EWCA Civ 1928, where the Court of Appeal decided that:

- i) The Registrar is entitled to treat the class number in the application as relevant to the interpretation of the scope of the application, for example, in the case of an ambiguity in the specification of goods;
- ii) On ordinary principles of construction, the application has to be read as a whole to determine its meaning and effect and the application includes the class number;
- iii) The fact that the Nice Classification System has been devised to serve exclusively administrative purposes does not mean that the selection of one or more class numbers has to be totally ignored in deciding, as a matter of construction of the application, what the application is for and whether it can properly be amended;
- iv) If the specification expressly refers to the class e.g. “all included in Class X” that is a stronger case for interpretation of the application by reference to the class number;
- v) However, that is not the only kind of case in which the class number can be taken into account by the Registrar, nor should the Registrar have to ignore the class number which the applicant (or his advisers' on his behalf) have included.

21) However, in the recent case of *Pathway IP Sarl (formerly Regus No. 2 Sarl) v Easygroup Ltd (formerly Easygroup IP Licensing Limited)*, [2018] EWHC 3608 (Ch), the appellant accepted that the Court of Appeal's decision in the *Altecnic* case meant that a statement in an application form identifying the class numbers of goods in respect of which registration was sought could be taken into account in resolving an ambiguity in the list of the specification of goods. However, the appellant argued that the decision did not establish that, when

considering use of a registered trade mark, the natural and ordinary meaning of words used in the specification should be limited by reference to the class number of the Nice Classification, even where the words used were ambiguous or vague. This was an important aspect of the appellant's appeal against the decision of the Hearing Officer to revoke the trade mark 'easyoffice' for non-use. The Hearing Officer found that the registered terms "*Provision of office facilities, rental of office equipment*" had to be construed within the limits of the services that fell within the class in which the mark was registered (Class 35). This meant that certain services in respect of which there was some evidence of use of the mark, e.g. rental of office furniture and computers, could not be considered because such services were not proper to class 35.

22)The appellant argued that the Hearing Officer had wrongly applied the class number as a 'straightjacket' and should have simply asked himself whether the services shown fell within the ordinary and natural meanings of the terms in the specification. It relied on the judgment of Arnold J in the *Omega 1* case [2010 EWHC 1211 (Ch), which he applied again in the *Omega 2* case [2012] EWHC 3440 (Ch). In essence, Arnold J. decided that *Altecnic* was of limited application and, when it came to questions of infringement (which are comparable to comparisons of goods/services in oppositions/cancellations) the class number was of little importance in interpreting the scope of the relevant descriptions of goods/services. However, after considering the CJEU's judgment in the *IP Translator* case, which emphasised the requirement for clarity and precision in specifications and the role of class headings in interpreting the meaning of individual descriptions of goods/services, the judge in the *easyoffice* case provisionally decided that:

"79. I have reached the provisional view, in the light of the respondent's arguments, that it is appropriate to use class number as an aid to interpretation of the specification where the words used in the specification lack clarity and precision. This applies to granted registrations as well as to applications, and therefore applies in the context of infringement actions and revocation claims. My reasons for reaching this conclusion are set out below.

80. Of course, in many cases, it will be unnecessary to use the class number in this way, as the words chosen in the specification will be sufficiently clear and precise. Indeed, in the present case, I consider that the disputed phrase "provision of office facilities" is sufficiently clear and precise, so that its ordinary and natural meaning can be ascertained without reference to the class number."

23) It is important to note that:

- (i) the judge's decision was 'provisional' indicating that he did not think that the matter was clear cut;
- (ii) the guidance was to consider the class number **only** where the meaning of the disputed term is not sufficiently clear and precise;
- (iii) where the term is sufficiently clear and precise on its face, the fact that the term covers goods/services that may also (or should have been) registered in other classes is irrelevant to the scope of protection afforded to the term, or to questions of use of the mark in relation to those goods/services;

24) In this case that meant that 'rental of office equipment' in class 35 was correctly construed as covering only rental services proper to class 35, i.e. rental of photocopying machines was relevant, but use of the mark in relation to rental of office furniture was irrelevant because those services did not fall in class 35. However, the judge held that "provision of office facilities" was sufficiently clear and precise that it was unnecessary to resort to the class number to construe the meaning of the words. Therefore, the mark covered the provision of any office facilities, irrespective of whether such services fell in class 35. Contrary to the findings of the Hearing Officer, the judge held that the registered term did not cover rental of office accommodation itself. This was because 'office facilities' did not, on its natural meaning, cover provision of office accommodation itself. The use of the mark in relation to the provision of office accommodation as such was therefore irrelevant to the revocation proceedings.

25) In the instant case it is clear that the term "alcoholic beverages" could include alcoholic beers and so the claim by AM to have used its mark upon beers, even though the registration relates to class 33, could have been accepted. However, I note that there is no use of the mark

MONT BLANC WHISKY only use of the mark MONT BLANC. I must therefore consider whether use of mark IR 705247 can be considered use of UK 2620639 and therefore maintain the registration. The question is whether the word “WHISKY” does not have a distinctive character then the distinctive character of the mark would be the words MONT BLANC only and, as such, AM could rely upon the use filed in respect of IR 705247 to maintain the registration. In *Nirvana Trade Mark*, BL O/262/06, Mr Richard Arnold Q.C. (as he then was) as the Appointed Person summarised the test under s.46(2) of the Act as follows:

"33. The first question [in a case of this kind] is what sign was presented as the trade mark on the goods and in the marketing materials during the relevant period...

34. The second question is whether that sign differs from the registered trade mark in elements which do not alter the latter's distinctive character. As can be seen from the discussion above, this second question breaks down in the sub-questions, (a) what is the distinctive character of the registered trade mark, (b) what are the differences between the mark used and the registered trade mark and (c) do the differences identified in (b) alter the distinctive character identified in (a)? An affirmative answer to the second question does not depend upon the average consumer not registering the differences at all."

26) The same point was raised in *Remus Trade Mark* – BL O/061/08 (Appointed Person) & *OAO Alfa-Bank v Alpha Bank A.E.* - 2011 EWHC 2021 (Ch) and *Orient Express Trade Mark* - BL O/299/08 (Appointed Person). Although these cases were decided before the judgment of the Court of Justice of the European Union (“CJEU”) in *Colloseum Holdings AG v Levi Strauss & Co.*, Case C-12/12, they remain sound law so far as the question is whether the use of a mark in a different form constitutes genuine use of the mark as registered. The later judgment of the CJEU must also be taken into account where the mark is used as registered, but as part of a composite mark.

27) When used upon whisky the mark MONT BLANC WHISKY clearly consists of the distinctive element “MONT BLANC” and a descriptive element “WHISKY”. However, the mark could not be used on beer as then the word WHISKY would be misleading and deceptive.

Therefore, the use of the term MONT BLANC upon beer cannot be regarded as use of MONT BLANC WHISKY upon alcoholic beverages or beer.

28) I now turn to consider the evidence of use of the mark upon whisky. It is clear that no whisky has actually been sold. In its evidence AM states that it looked into building its own distillery, purchased a single 200 litre wooden barrel and had a label designed for its bottles all in 2017. It also appears to have had 4,500 litres of liquid distilled. However, after distilling whisky needs to age in a cask for some time prior to being bottled, e.g. Scotch whisky has a minimum time in the cask of three years before it can be sold. There is no evidence that more than one barrel for such aging has been purchased, nor is there any evidence of where the spirit is being stored. Even if I accept that AM has had whisky distilled by a third party and is simply awaiting its maturation, AM must have been aware of the length of time that the process takes before the product can actually be sold. AM had the choice to build its own distillery and start production shortly after it registered the trade mark and therefore be in a position to actually use the mark within the five year period or to have the whisky distilled by a third party at an earlier date, again allowing it to use the mark within the time limits. Its failure to do either is purely down to its own decisions (or lack thereof) but it has clearly resulted in no whisky under the trade mark being offered for sale.

29) The result of this is that I find that there has been no use of mark 2620639 within the relevant period. The mark is revoked as of 6 October 2017.

30) I now turn to the ground of opposition under 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.”

31) 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.”

32) Following the revocation action above, AM is left relying upon its trade mark listed in paragraph 3 above which is clearly an earlier trade mark. JDS put AM to proof of use, which has already been considered as part of the revocation action earlier in this decision. In the five years prior to the publishing of the mark in suit on 5 January 2018, AM has shown that it used its mark IR 705247 **MONT BLANC** on beer.

33) 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

34) As the case law above indicates, it is necessary for me to determine who the average consumer is for the respective parties' goods. I must then determine the manner in which these goods 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.”

35) The goods at issue in these proceedings are all beverages, beers and whiskies. The average consumer for such goods will be the public at large (including businesses), albeit insofar as those goods which have an alcoholic content in excess of 0.5% are concerned, the average consumer will be over the age of 18. All of the goods at issue may be sold through a range of channels, including retail premises such as supermarkets and off-licences (where the goods are normally displayed on shelves and are obtained by self-selection) and in public houses (where the goods are displayed on, for example, shelves behind the bar and where the

trade marks will appear on dispensers at the bar etc.). When the goods are sold in, for example, public houses the ordering/selection process is likely to be an oral one. However, there is nothing to suggest that the goods are sold in such a manner as to preclude a visual inspection. In *Simonds Farsons Cisk plc v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-3/04, the Court of First Instance (now the General Court) said:

“In that respect, as OHIM quite rightly observes, it must be noted that, even if bars and restaurants are not negligible distribution channels for the applicant’s goods, the bottles are generally displayed on shelves behind the counter in such a way that consumers are also able to inspect them visually. That is why, even if it is possible that the goods in question may also be sold by ordering them orally, that method cannot be regarded as their usual marketing channel. In addition, even though consumers can order a beverage without having examined those shelves in advance they are, in any event, in a position to make a visual inspection of the bottle which is served to them.”

36) Consequently, while the goods may be ordered orally in public houses, it is likely to be in the context of, for example, a visual inspection of the bottles/pumps containing the goods prior to the order being placed. Considered overall, the selection process is likely to be predominantly a visual one, although I accept that aural considerations will also play their part. Turning now to the level of attention the average consumer will display when selecting the goods, given that for the most part the cost of the goods is likely to be relatively low, but bearing in mind that the average consumer will wish to ensure they are selecting the correct type, flavour, strength etc. of beverage, they are, in my view, **likely to pay at least a reasonable level of attention to the selection of the goods at issue.**

Comparison of trade marks

37) 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.”

38) It would be wrong, therefore, to artificially 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:

AM's trade mark	JDA's trade marks
MONT BLANC	MONT BLANC WHISKY MONT BLANC WHISKIES A series of two

39) Clearly both marks contain the same first two words “MONT BLANC” a well known mountain in the Alps. The only difference in the marks is the descriptive terms “whisky / whiskies” which given that JDA’s mark is only sought to be registered for “whiskies” would not be regarded by the average consumer as an indication of origin. **The marks are therefore highly similar, almost identical.**

Distinctive character of the earlier trade mark

40) 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).”

41) The opponent has provided evidence of sales for Mont Blanc beers in the UK, but these were not impressive. It has not provided its market share or given figures for the number of bottles or cases of beer that were sold in the relevant years. There is no evidence to show what if any impact it has made upon the average UK consumer whose perspective is at issue here. AM’s **mark cannot benefit from enhanced distinctiveness through use**. AM’s mark consists of the words MONT BLANC. It is not descriptive of the goods (beers) and is in fact a well-known mountain in the Alps and suggests a simple geographical location. **To my mind, the earlier mark is of low average inherent distinctiveness.**

Comparison of goods

42) When making the comparison, all relevant factors relating to the goods in the specifications should be taken into account. In *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer*, the CJEU stated at paragraph 23 of its judgement:

“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”.

43) Guidance on this issue has also come from Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, where he identified the factors for assessing similarity as:

- (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.

44) In *Gérard Meric v Office for Harmonisation in the Internal Market (Trade Marks and Designs) OHIM* case T-133/05, the General Court (“GC”) stated:

“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 T110/01 *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).”

45) In *Kurt Hesse v OHIM*, Case C-50/15 P, the CJEU stated that complementarity is an autonomous criteria capable of being the sole basis for the existence of similarity between goods. In *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06, the General Court stated that “complementary” means:

“...there is a close connection between them, in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods lies with the same undertaking”.

46) I also note that if the similarity between the goods/services is not self-evident, it may be necessary to adduce evidence of similarity even if the marks are identical. In *Commercy AG, v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-316/07, the General Court pointed out that:

“43. Consequently, for the purposes of applying Article 8(1)(b) of Regulation No 40/94, it is still necessary, even where the two marks are identical, to adduce evidence of similarity between the goods or services covered by them (see, to that effect, order of 9 March 2007 in Case C-196/06 P *Alecansan v OHIM*, not published in the ECR, paragraph 24; and Case T-150/04 *Mülhens v OHIM – Minoronzoni(TOSCA BLU)* [2007] ECR II-2353, paragraph 27).”

47) Thus where the similarity between the respective goods or services is not self-evident, the opponent must show how, and in which respects, they are similar. AM contends in its submissions that:

“Beer is considered similar to other alcoholic beverages including whisky. This is because the beverages have the same purpose, namely to accompany a meal or quench thirst. The goods are sold to the same customers through the same distribution channels, be that shops or in bars or restaurants and are in competition with one another. As stated in the evidence they can also have the same producers, as brewers often produce other alcoholic or non-alcoholic beverages. Therefore, the goods are highly similar.”

48) I note that the evidence made a claim that beer producers also produce other alcoholic beverages but no evidence was provided which showed a brewer/distiller manufacturing beer and whisky and selling both under the same brand. I take note that in *Bodegas Montebello, SA v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-430/07, the GC found that rum and wine were “manifestly different” (its analysis is at paragraphs 29-37). This was based on an assessment of the different ingredients and methods of production, which result in end products different in taste, colour and aroma. In addition, it noted that wine is often drunk with a meal, while that is not generally the case for rum, and that the goods have a markedly different alcohol content. Although the Court accepted that rum and wine may share the same distribution channels, it considered that the goods would not generally be sold on the same shelves and that the goods were neither complementary nor in competition. Using the same logic, as rum and whisky are very similar, as are beers and wines, I conclude that the term “whiskies” in JDA’s mark are neither similar nor complementary to beer.

49) I also take into account case T-584/10 *Yilmaz v OHIM* (ECLI:EU:T:2012:518) which is more comparable with the instant case. In this case, the goods found to be dissimilar were a spirit (Tequila) and beer. In making its assessment, the General Court applied the approach from *MEZZOPANE* and started at paragraph 51:

“...the differences between those goods [that is Tequila and beer], in respect of all the relevant factors relating to them, are clearer and more substantial than the differences between beer and wine established by the Court in *MEZZOPANE*, with the result that those differences make it even more unlikely that the relevant public would believe that the same undertaking would produce and market the two types of beverage at the same time.”

50) The General Court went on at paragraph 54:

“In that regard, it must be borne in mind, in particular, that, while the goods to be compared in the present case belong to the same general category of beverages, and more specifically to the category of alcoholic beverages, they are different in particular as regards their ingredients, method of production, colour, smell and taste, with the result that the average consumer perceives them to be different in nature. Those goods are not normally displayed in the same shelves in the areas of supermarkets and other outlets selling drinks. As regards their use, a significant difference between the goods is that beer quenches thirst which is not normally the case for the alcoholic beverages covered by the mark applied for. While it is true that those goods may be consumed in the same places and on the same occasions and satisfy the same need – for example, enjoyment of a drink during a meal or as an aperitif – the fact remains that they do not belong to the same family of alcoholic beverages and that the consumer perceives them as two distinct products, as the Court held, so far as concerns beer and wine, in paragraph 66 of *MEZZOPANE*.”

51) The Court then went to state that the existence of alcoholic cocktails does not affect this conclusion (paragraph 55); that Tequila and beer are not complementary (paragraph 56); and, furthermore, that there is a lower degree of competition between Tequila and beer than there is between wine and beer (paragraph 57). Ultimately, the Court upheld the Board of Appeal’s finding that the goods were dissimilar (at paragraph 72, which upheld the finding at R 1162/2009-2 *TEQUILA CUERVO*, paragraph 44).

52) **It is therefore clear that JDA's goods "whiskies" are dissimilar to AM's goods "beers"**. I note that in *eSure Insurance v Direct Line Insurance*, [2008] ETMR 77 CA, Lady Justice Arden stated that:

"49..... I do not find any threshold condition in the jurisprudence of the Court of Justice cited to us. Moreover I consider that no useful purpose is served by holding that there is some minimum threshold level of similarity that has to be shown. If there is no similarity at all, there is no likelihood of confusion to be considered. If there is some similarity, then the likelihood of confusion has to be considered but it is unnecessary to interpose a need to find a minimum level of similarity.

53) This determines the matter and there can be no likelihood of confusion where there is no similarity between the goods of the two parties. However, for the sake of completeness I will continue to consider the likelihood of confusion.

Likelihood of confusion

54) 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 goods and vice versa. As I mentioned above, it is also necessary for me to keep in mind the distinctive character of AM's trade mark as the more distinctive the trade mark is, the greater the likelihood of confusion. I must also keep in mind the average consumer for the goods, 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 for the goods is a member of the general public including businesses who will select the goods by predominantly visual means, although I do not

discount aural considerations and that they are likely to pay at least a reasonable degree of attention to the selection of said goods.

- the marks of the two parties have a very high degree of similarity.
- AM's mark has a low average level of inherent distinctiveness and cannot benefit from an enhanced distinctiveness through use.
- the goods of the two parties are dissimilar.

55) It is necessary to consider the likelihood of both direct and indirect confusion. In *L.A. Sugar Limited v By Back Beat Inc*, Case BL-O/375/10, Mr Iain Purvis Q.C. as the Appointed Person, explained 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.

56) I also note that in *Duebros Limited v Heirler Cenovis GmbH*, BL O/547/17, Mr James Mellor Q.C., 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.

57) As beer and whisky are such different alcoholic beverages and no evidence has been provided which shows that it is common for a single company to produce both I do not envisage that a consumer seeing both on the shelves behind a bar would consider that the same manufacturer was responsible for both, only that both originated in the region of Mont Blanc, not necessarily from the same country. In view of all of the above, and allowing for the concept of imperfect recollection there is no likelihood of consumers being confused, directly or indirectly, into believing that the goods applied for and provided by JDA are those of AM or provided by an undertaking linked to it. **The opposition under Section 5(2) (b) therefore fails in respect of all the goods applied for by JDA.**

58) The last ground of opposition is under section 5(4)(a) which reads:

“5.(4) A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented –

(a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, or

(b) [.....]

A person thus entitled to prevent the use of a trade mark is referred to in this Act as the proprietor of “an earlier right” in relation to the trade mark.”

59) In *Discount Outlet v Feel Good UK*, [2017] EWHC 1400 IPEC, Her Honour Judge Melissa Clarke, sitting as a deputy Judge of the High Court conveniently summarised the essential requirements of the law of passing off as follows:

“55. The elements necessary to reach a finding of passing off are the ‘classical trinity’ of that tort as described by Lord Oliver in the *Jif Lemon* case (*Reckitt & Colman Product v Borden* [1990] 1 WLR 491 HL, [1990] RPC 341, HL), namely goodwill or reputation; misrepresentation leading to deception or a likelihood of deception; and damage

resulting from the misrepresentation. The burden is on the Claimants to satisfy me of all three limbs.

56 In relation to deception, the court must assess whether "*a substantial number*" of the Claimants' customers or potential customers are deceived, but it is not necessary to show that all or even most of them are deceived (per *Interflora Inc v Marks and Spencer Plc* [2012] EWCA Civ 1501, [2013] FSR 21)."

60) Whilst Halsbury's Laws of England Vol. 97A (2012 reissue) provides further guidance with regard to establishing the likelihood of deception. In paragraph 309 it is noted (with footnotes omitted) that:

"To establish a likelihood of deception or confusion in an action for passing off where there has been no direct misrepresentation generally requires the presence of two factual elements:

(1) that a name, mark or other distinctive feature used by the plaintiff has acquired a reputation among a relevant class of persons; and

(2) that members of that class will mistakenly infer from the defendant's use of a name, mark or other feature which is the same or sufficiently similar that the defendant's goods or business are from the same source or are connected.

While it is helpful to think of these two factual elements as successive hurdles which the plaintiff must surmount, consideration of these two aspects cannot be completely separated from each other, as whether deception or confusion is likely is ultimately a single question of fact.

In arriving at the conclusion of fact as to whether deception or confusion is likely, the court will have regard to:

- (a) the nature and extent of the reputation relied upon;
- (b) the closeness or otherwise of the respective fields of activity in which the plaintiff and the defendant carry on business;
- (c) the similarity of the mark, name etc. used by the defendant to that of the plaintiff;
- (d) the manner in which the defendant makes use of the name, mark etc. complained of and collateral factors; and
- (e) the manner in which the particular trade is carried on, the class of persons who it is alleged is likely to be deceived and all other surrounding circumstances.”

In assessing whether confusion or deception is likely, the court attaches importance to the question whether the defendant can be shown to have acted with a fraudulent intent, although a fraudulent intent is not a necessary part of the cause of action.”

61) The opponent originally pleaded its signs UK 2620639 **MONT BLANC** Whisky and IR 705247 **MONT BLANC**. However, as a result of the revocation decision made earlier in this decision AM cannot rely upon its UK 2620639 mark as it was revoked prior to JDA making its application. Earlier in this decision I found that AM had used its IR 705247 mark on beer in the UK, but that use of the mark in suit, actual or on a fair and notional basis, would not result in confusion with the AM’s mark IR 705247. Accordingly, it seems to me that the necessary misrepresentation required by the tort of passing off will not occur. **The opposition under Section 5(4)(a) of the Act must fail.**

CONCLUSION

62) JDA was successful in revoking AM’s mark UK 2620639 but failed in its attempt to revoke AM’s mark IR 705247. However, AM has failed in its opposition to JDA’s application in respect of both grounds. As such JDA is entitled to a contribution towards its costs.

Preparing a statement and considering the other side's statement x3	£900
Expenses	£200
Considering other sides evidence	£800
TOTAL	£1,900

63) I order Alpes Marques to pay James Duncan Abbott. the sum of £1,900. 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 2 April 2019

George W Salthouse
For the Registrar,
the Comptroller-General