

IN THE MATTER OF APPLICATION NO. 2348433 IN THE NAME OF
HYUNDAI MOBIS CO. LIMITED

AND IN THE MATTER OF OPPOSITION NO. 92664 THERETO BY
EXXONMOBIL OIL CORPORATION

DECISION

Introduction

1. On 11 November 2003 Hyundai Mobis Co Ltd applied to register the trade mark MOBIS. The application was published for opposition purposes with the following specification of goods:

Class 7: Door openers and closers; painting machines and apparatus; power transmission and gearing for machine other than for vehicles; shock absorbers (machine elements not for vehicles); brakes (machine elements not for land vehicles); parting apparatus and machine; current generators and motors other than for vehicles; air cleaner filters, alternators, compressors, condensers, crank cases (metal), engine oil filters, overhaul seals (sealing joints for engine), radiators and spark plugs for automobiles; crank cases for machines, motors and engines; exhaust pipes; fuel filters; mufflers; timing belts; turbochargers.

Class 9: Meters and testers for motor vehicles; power distribution or controlling machines and apparatus for motor vehicles; batteries and cells for motor vehicles; electric wires and cables for motor vehicles; communication machines and apparatus for motor vehicles; navigational position and functional monitoring and control equipment and related software for motor vehicles; audio, video systems and devices for motor vehicles; socket, magnetic cores, and electrodes for motor vehicles; electronic apparatus, and their parts for motor vehicles; electronic control units, heat control boxes, quick connectors, remote keyless entries, signal indicators (direction signals), spark plug cables; parts and accessories for automobiles.

Class 11: Electric lamps and lighting components and instruments and parts for motor vehicles; refrigerating components and instruments and parts for motor vehicles; heating components and instruments and parts for motor vehicles; ventilating components and instruments and parts for motor vehicles; air conditioners, fog lamps, head lamps, rear combination lamps and stop lamps for automobiles; parts and accessories for automobiles;

Class 12: Motor vehicles and parts, components, and accessories thereof; power transmissions and gearings for motor vehicles; shock absorbers for motor vehicles; brakes for motor vehicles; motors for motor vehicles; tyres and tubes for motor vehicles; air bag modules, air pumps, brake disks, brake forks, brake linings, brake shoes, burglar alarms, chassis, clutch disks, disk brake pads, door panels, driving chains, electric motors, electromotive chains, electromotive shafts, engines, fender panels, front bumper covers, front bumper grills, front bumper rails, front bumpers, front mask, gear boxes, gears, grill cover for automobiles; head rests, hood panels, hood protectors, horns, idle servos, instrument panels, links, luggage racks, mudguards, radiator grills, rear bumper covers, rear bumpers, rearview mirrors, roller chain, roof carriers, rubber belts for automobiles; rims for wheels of automobiles; safety belts for the seats of automobiles; safety seat for children, seat covers, seats, servomotor, shafts, shock absorbers using oil pressure and spring force, shock absorbing springs, short engines, side mirrors, ski carriers, spiral springs, spoilers, springs, steering wheels and sun roofs for automobiles; spokes for wheels of automobiles; tyres, torque converters, torsion bars, trans-axles, transmission, tubes, wheel hub bearings, wheels, windows, windshield glasses, windshield wipers and wood-grain for automobiles; parts and accessories for automobiles; alarms for backward motion of automobiles; sun visors for automobiles; crank cases for land vehicles (other than for engines).

2. The application was opposed by ExxonMobil Oil Corp on grounds raised under sections 5(2)(b), 5(3), 5(4)(a) and 56 of the Trade Marks Act 1994. In support of its opposition the opponent relied upon four earlier Community trade marks, Nos. 82412, 82453, 165704 and 165480. Nos. 82412 and 82453 are for the trade mark MOBIL in respect of all goods in Classes 1, 3, 4, 9, 16 and 19, all services in Classes 36, 37 and 41 and “verification of the identity of a person in conjunction with financial matters such as credit services” in Class 42. Nos. 165704 and 165480 are for a stylized version of MOBIL in respect of a similar list of goods and services.
3. Both sides filed evidence and written submissions but neither requested a hearing. David Landau acting for the Registrar dismissed the opposition in a written decision dated 6 July 2006 (O/186/06). The opponent now appeals. On

the appeal the opponent only relies upon sections 5(2)(b) and 5(3) of the 1994 Act and upon the MOBIL word marks.

Relevant provisions of the Trade Marks Act 1994

4. Section 5 of the 1994 Act provided at the relevant times in relevant parts as follows:

(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 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

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(3) A trade mark which-

(a) is identical with or similar to an earlier trade mark, and

(b) is to be registered for goods or services which are not similar to those for which the earlier trade mark is protected,

shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the United Kingdom (or, in the case of a Community trade mark, in the European Community) and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark.

5. These provisions implement Articles 4(1)(b), 4(3) and 4(4) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks.

The hearing officer's decision

6. In relation to section 5(2)(b) the hearing officer stated that he took into account the guidance provided by the Court of Justice of the European Communities in Case C-251/95 *SABEL BV v Puma AG* [1997] ECR I-6191,

Case C-39/97 *Canon Kabushiki Kaisha v Metro-Goldwyn-Meyer Inc* [1998] ECR I-5507, Case C-342/97 *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel BV* [1999] ECR I-3819, Case C-425/98 *Marca Mode CV v Adidas AG* [2000] ECR I-4881 and Case C-106/03P *Vedial SA v OHIM* [2004] ECR I-9573.

7. With regard to the comparison between the respective trade marks, the hearing officer's analysis was as follows:

MOBIL and MOBIS are invented words; they are, therefore, neither linked by conceptual similarity nor distanced by conceptual dissonance. Aurally and visually the difference between the trade marks lies in the final letter. They are short words of only five letters, as a result I consider that the endings will carry a good deal of weight and effect (they will not suffer the degradation as contemplated in *Les Editions Albert René v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) Case T-336/03 and Tripcaströid* (1925) 42 RPC 264). The final letters have very different sounds and taking into account the shortness of the words will allow aural differentiation between them. I consider that any normal pronunciation, the sibilant in MOBIS will sound strongly. The visual consideration and perception of the trade marks will be determined to a great extent by the fact that we are schooled to differentiate between letters. Of course, certain letters do look similar eg the letters I and l, in certain contexts the letters m and n. I find it unlikely that the letters L and S will be seen as being similar; whether in upper or lower case. I consider that the experience of differentiating between different letters means that, despite the other identical elements, the trade marks are unlikely to be seen as being similar. I am of the view that this is the case whether the purchasing decision is likely to be considered and researched or off the cuff. My overall analysis is that despite the similarities of the trade marks that they are not similar. Similarities in trade marks should not be conflated into the trade marks being considered similar; it will be an odd opposition where there are not any similarities between the contested signs. I would add that my immediate and continuing reaction to the respective trade marks is that they are not similar. It would be easy to build a case to justify a finding that the trade marks are similar, on the basis that the four of the first five letters are the same. I am aware that in some jurisdictions such a mechanistic approach is adopted. However, I am of the view that such a finding would be a legal chimera rather than representing the perception of an average consumer; whether for motor vehicles or for their various parts and fittings. **I find that the trade marks are not similar.** The judgment in *Vedial SA v Office for the Harmonization of the Internal Market (marks, designs and models) (OHIM)* tells me that I need go no further. If it is decided that the trade marks are not similar, that is the end of the matter, in relation to a likelihood of confusion; whether there is reputation and/or identical goods counts for nought. One of the two essential requirements for a finding of likelihood of confusion has not been satisfied and that is the end of the matter.

However, for the sake of completeness I will consider the similarity of the respective goods/services.

8. Although, having concluded that the marks were not similar, the hearing officer, as he rightly said, did not need to go further, he nevertheless did so. So far as the comparison between the respective goods and services was concerned, the hearing officer concluded that (1) the Class 9 goods covered by the application were identical to goods covered by one of the opponent's registrations and (2) the Class 7, 11 and 12 goods covered by the application were similar to the Class 37 services covered by the opponent's other registration with the exception of the following goods in Class 7:

door openers and closers; painting machines and apparatus; power transmission and gearing for machine other than for vehicles; shock absorbers (machine elements not for vehicles); brakes (machine elements not for land vehicles); parting apparatus and machine; current generators and motors other than for vehicles.

9. With regard to the average consumer and the degree of care that would be exercised, the hearing officer's findings were as follows:

Most of the goods of the application will be bought with some care and consideration; some are expensive purchases, others, even though they may be of low cost, will involve a careful and educated purchasing decision as they will need to be compatible with the goods with which they are being used. One does not, for instance, buy an air filter on the offchance that it will be suitable. The purchase of such goods as a trans-axle, an air bag module or radiator grill will not only be the result of a careful purchasing decision but the average consumer for such goods is likely to be a specialist; if the enthusiastic amateur purchases such goods to fit, that amateur is going to be very knowledgeable and careful in the purchasing decision. For motor vehicles the purchasing decision is one that is careful, educated and researched; even the smallest difference between trade marks would be likely to allow the purchaser to distinguish the goods.

10. The hearing officer's overall conclusion was as follows:

On the basis of the evidence, Exxon might be able to claim a reputation for MOBIL in respect of engine oils and other lubricants. It appears to me that MOBIL is readily capable of distinguishing the goods of one undertaking from those of another and, consequently, enjoys a reasonable degree of inherent distinctiveness. Some of the goods are identical, some are highly

similar but this cannot benefit Exxon owing to the differences between the trade marks and the nature of the purchasing decisions that are likely to be made.

11. So far as the objection under section 5(3) is concerned, the hearing officer dismissed this on the ground that the opponent's evidence did not establish that the opponent's trade marks had a reputation in the Community although he was prepared to accept that MOBIL had a reputation in relation to lubricants in the United Kingdom.

Standard of review

12. This appeal is a review of the hearing officer's decision. The opponent's attorney accept that the hearing officer's decision with regard to each of the issues in this case involved a multi-factorial assessment of the kind to which the approach set out by Robert Walker LJ in *REEF TM* [2002] EWCA Civ 763, [2003] RPC 5 at [28] applies:

In such circumstances an appellate court should in my view show a real reluctance, but not the very highest degree of reluctance, to interfere in the absence of a distinct and material error of principle.

A decision does not contain an error of principle merely because it could have been better expressed.

Grounds of appeal

13. The statement of grounds of appeal filed by the opponent was less than clear as to the grounds upon which the opponent contended that the hearing officer had erred, and in particular whether the opponent was challenging the hearing officer's decision under section 5(3) as well as that under section 5(2)(b) and, if so, upon what basis.
14. With regard to section 5(2)(b), the opponent contends that the hearing officer erred in principle in two main respects which are linked. First, he treated the question of similarity of marks as a yes/no binary question, whereas the

correct approach is to treat it as one of degree. Secondly, he failed to apply the interdependency principle established by the jurisprudence of the European Court of Justice.

15. As for section 5(3), the opponent contended in its skeleton argument (which only served just over an hour before the commencement of the hearing) that that the hearing officer had erred in law in holding that it was required to establish a reputation in the Community and that he should have held that it was sufficient to establish a reputation in the United Kingdom. This was not a ground of appeal which had been foreshadowed in its statement of grounds of appeal. I nevertheless permitted the opponent to develop this contention at the hearing before me on the basis that the applicant would be permitted to make written submissions on this point of law after the hearing and the opponent would be permitted to make written submissions strictly in reply thereto. During the hearing the opponent's attorney expressed confirmed that, if the opponent was unsuccessful on the issue of law, it did not challenge the hearing officer's decision under section 5(3) on any other basis. Despite this, in his subsequent written submissions the opponent's attorney sought for the first time to argue that, even if the hearing officer was right in law, he was wrong on the evidence to hold that the opponent had not established a reputation in the Community. This argument was not in reply to the applicant's written submissions and was in contradiction to the way the case had been presented at the hearing. In my view it was too late for the opponent to raise this argument when it did. I shall therefore confine my consideration to the issue of law raised by the opponent.

Section 5(2)(b)

16. In my judgment the hearing officer's analysis does suffer from the errors identified by the opponent. As the European Court of Justice has repeatedly stated, the correct approach is to assess likelihood of confusion globally allowing for interdependence between the relevant factors, and in particular (i) the degree of similarity between the respective marks, (ii) the degree of similarity between the respective goods or services and the (iii) degree of

distinctive character of the earlier trade mark. Having reviewed the case law in *Home-Tek International Ltd's Applications* (O/144/05) at [14]-[31], Geoffrey Hobbs QC sitting as the Appointed Person concluded that, while it may be possible in some cases pre-emptively to conclude that the dissimilarity between the respective marks or between the respective goods or services is in and of itself such as to preclude the existence of a likelihood of confusion, the right course was to avoid such pre-emptive findings in any case where there was room for doubt as to the conclusiveness of the dissimilarity. In *Sugarman's Application* (O/305/05) at [16], I stated my agreement with Mr Hobbs' analysis.

17. In concluding that MOBIL and MOBIS were not similar, the hearing officer relied upon the decision of the European Court of Justice in Case C-106/03P *Vedial SA v OHIM* [2004] ECR I-9573 on appeal from Case T-110/01 [2002] ECR II-5275. In his earlier decision in *Citybond Holdings plc's Application* (O/136/05) the hearing officer also relied upon *Vedial* in concluding that the marks CITYBOND and CITIBANK were not similar. That decision was the subject of an appeal to the Appointed Person which was heard by Mr Hobbs. In his decision (O/197/06) at [38]-[42], Mr Hobbs analysed the judgments in *Vedial*. As can be seen from his analysis, the case needs to be treated with considerable care. All that the ECJ decided was that the Court of First Instance had not erred in law in concluding that there was no likelihood of confusion once it had found that there was no similarity between the respective marks. It appears from the Advocate General's opinion that the appellant did not challenge the finding of no similarity. Mr Hobbs suggested that the CFI's finding of no similarity must be explained on the basis that the common element between the marks did not perform an independent distinctive role and that taken as a whole the marks were different. Mr Hobbs went on at [45] to cite his analysis in *Home-Tek* as continuing to represent the correct approach.
18. I have no doubt that Mr Hobbs is right. I consider that it is clear that *Vedial* establishes no rule as to the extent of similarity which is required to establish a likelihood of confusion and simply represents the application of well-known

principles to a particular set of facts. In Case C-235/05P *L'Oréal SA v OHIM* (27 April 2006) the ECJ rejected an appeal from the CFI as manifestly unfounded by reasoned order. Its statement of the law in the order may therefore be regarded as beyond dispute:

[34] It is settled case-law that likelihood of confusion on the part of the public must be assessed globally, taking into account all factors relevant to the circumstances of the case (see, to that effect, Case C-251/95 *SABEL* [1997] ECR I-6191, [22]; Case C-342/97 *Lloyd Schuhfabrik Meyer* [1999] ECR I-3819, [18]; and order of 28 April 2004 in Case C-3/03P *Matratzen Concord v OHIM* [2004] ECR I-3657, [28]).

[35] That global assessment implies some interdependence between the relevant factors, and in particular a similarity between the trade marks and between the goods or services covered. Thus, a lesser degree of similarity between those goods or services may be offset by a greater degree of similarity between the marks, and vice versa. Accordingly, it is necessary to give an interpretation of the concept of similarity in relation to the likelihood of confusion, the assessment of which depends, in particular, on the recognition of the trade mark on the market and the degree of similarity between the mark and the sign and between the goods or services covered (see *Canon*, [17], and *Lloyd Schuhfabrik Meyer*, [19]).

[36] In that regard, as the more distinctive the earlier mark, the greater the risk of confusion (*SABEL*, [24]), marks with a highly distinctive character, either per se or because of the reputation they possess on the market, enjoy broader protection than marks with a less distinctive character (see *Canon*, [18], and *Lloyd Schuhfabrik Meyer*, [20]).

[37] It has therefore been held that there may be a likelihood of confusion, notwithstanding a low degree of similarity between the marks, where the similarity of the goods or services is high and the earlier mark possesses a strong distinctive character (see, to that effect, *Canon*, [19], and *Lloyd Schuhfabrik Meyer*, [21]).

19. Consistently with this, in Case T-396/04 *Soffass SpA v OHIM* [2006] IP&T 272 the CFI held as follows (emphasis added):

[26] It is clear from that provision that the likelihood of confusion presupposes both that the mark applied for and the earlier mark are identical or similar, and that the goods or services covered by the application for registration are identical or similar to those in respect of which the earlier mark is registered. Those conditions are cumulative (Case C-106/03 P *Vedial v OHIM* [2004] ECR I-9573, [51]).

- [27] Therefore, *if the signs are completely different* it is possible in principle, without examining the goods in question, to take the view that there is no likelihood of confusion.
- [28] It should be added that, according to settled case-law, the risk that the public might believe that the goods or services in question come from the same undertaking or, as the case may be, from economically linked undertakings constitutes a likelihood of confusion.
- [29] The same case-law also states that the likelihood of confusion must be assessed globally, according to the perception by the relevant public of the signs and the goods or services in question, and taking into account all factors relevant to the circumstances of the case, in particular the interdependence between similarity of the signs and similarity of the goods or services designated (see Case T-162/01 *Laboratorios RTB v OHIM – Giorgio Beverly Hills (GIORGIO BEVERLY HILLS)* [2003] ECR II-2821, [31] to [33] and the case-law cited).
- [30] In the light of that interdependence, even a lesser degree of similarity between the marks may be offset by a higher degree of similarity between the designated goods or services and vice versa (see, by analogy, *Canon*, [17], and Case C-342/97 *Lloyd SchuhfabrikMeyer* [1999] ECR I-3819, [19]).
- [31] Therefore, *if there is even a slight similarity between the two signs* the likelihood of confusion must be assessed globally, taking account of all the relevant factors.
20. In my judgment it is clear from the hearing officer's own analysis of the marks that it cannot be said that they are completely different. On the contrary, he expressly acknowledged that there were similarities between them, as he was bound to do given that they only differ in one letter. Furthermore, his conclusion presupposes that use of MOBIS even in relation to engine oil for motor vehicles would not give rise to a likelihood of confusion. In my view this proposition only has to be stated to be seen to be untenable. The average consumer of engine oil is a motor vehicle owner or driver. It is an inexpensive product which is not purchased with great care and is frequently selected by the consumer from a shelf display. As the hearing officer found, MOBIL has a reputation for engine oil in the United Kingdom. As I pointed out in *Sarmad's Application* [2006] ETMR 2 at [18], the human eye has a tendency to see what it expects to see and the human ear has a tendency to hear what it expects to hear. Accordingly I consider that some consumers of engine oil who did not

have the opportunity to compare the marks side-by-side would be likely to misread/mishear MOBIS as MOBIL. Moreover, others who registered the difference might think that MOBIS denoted another engine oil from the producer of MOBIL, particularly if they happened to be aware (consciously or subconsciously) that “bis” means “two” in Latin.

21. It follows that it is necessary for me to reconsider the section 5(2)(b) objection myself. I do so on the basis that neither side challenged the hearing officer’s comparisons between the respective goods and services, his findings that MOBIL has a reasonable degree of inherent distinctive character and a reputation for lubricants or his finding that the average consumer of the goods covered by the application would exercise considerable care in purchasing.
22. So far as the comparison between the marks is concerned, it is obvious that four out of five letters are the same and to that extent they are visually and phonetically similar. Nevertheless I agree with the hearing officer that the final letters do have different sounds and that the sibilant ending of MOBIS is unlikely to be mispronounced or slurred in a way which sounds like MOBIL. It is also true that the final letters are visually distinguishable, although I consider that this is less significant than the hearing officer apparently did. Finally, I agree with the hearing officer that conceptually the marks are neither linked nor differentiated. Accordingly, I consider that the existence of a likelihood of confusion depends strongly on the impact of the other relevant factors.
23. In favour of a likelihood of confusion are the factors that the application covers some goods identical to those covered by one of the opponent’s registrations, and to a lesser extent that the application covers other goods similar to the services covered by another of the opponent’s registrations, and that MOBIL has a reasonable degree of inherent distinctive character in relation to the goods in question. The reputation of MOBIL for lubricants I consider to be of less assistance to the opponent, since the opponent’s evidence does not demonstrate that the mark has a reputation outside this field and the applicant’s mark is not sought to be registered for lubricant-related

goods other than “engine oil filters”. Nor does the opponent’s evidence show that it is common for lubricant marks to be used for other vehicle-related goods. Against a likelihood of confusion is the degree of care which the hearing officer found would be exercised. I also bear in mind that the opponent has not adduced any positive evidence to substantiate its assertion of a likelihood of confusion.

24. In my judgment it is tolerably clear that there is no likelihood of confusion in relation to the non-vehicle related goods in Class 7 which the hearing officer found not to be similar to the opponent’s goods and services (although I would again point out that here too similarity is a matter of degree). I consider that the picture is rather less clear when it comes to the vehicle-related goods covered by the application. I believe that this is one of those cases where different tribunals could easily come to different conclusions.
25. For my part, having pondered the matter for some time, I have come to the conclusion that the decisive factor in the present case is the degree of similarity between the goods covered by the application and the goods and services covered by the opponent’s registrations.
26. In the case of the Class 9 goods covered by the application, there is no dispute that these are identical to goods covered by one of the opponent’s registrations. I consider that, where the goods are identical, the degree of inherent distinctiveness of MOBIL and the degree of similarity between the respective marks is such as to lead to a likelihood of confusion despite the care that would be exercised in purchasing for similar reasons to those outlined in paragraph 20 above.
27. In the case of the Class 7, 11 and 12 goods covered by the application, however, with one exception these are merely similar to services covered by the opponent’s other registration. In these circumstances I consider that there is no likelihood of confusion since the distance between the respective goods/services and the degree of care that will be exercised outweigh the distinctiveness of MOBIL and the similarity between the marks.

28. The exception is “engine oil filters”. I did not understand the applicant’s attorney to dispute that engine oil filters have an obvious association with engine oil. Given the reputation of MOBIL in relation to engine oil, I consider that there is a real risk that some consumers would believe MOBIS engine oil filters to emanate from the same or economically-linked undertakings.
29. I therefore conclude that the section 5(2)(b) objection is made out in relation to the Class 9 goods covered by the application and in relation to “engine oil filters”, but not otherwise.

Section 5(3)

30. The opponent contends that, where an opponent relies upon a Community trade mark, it is sufficient for the purposes of section 5(3) to show that it has a reputation in the United Kingdom and that the hearing officer was wrong in law to hold that it was required to show a reputation in the Community.
31. I am unable to accept this argument. Section 5(3) on its face expressly distinguishes between what is required in the case of an earlier national mark, namely “a reputation in the United Kingdom”, and what is required in the case an earlier Community trade mark, namely “a reputation ... in the European Community”. This distinction reflects the difference between Article 4(4)(a) of the Directive, which requires that “the earlier [national] trade mark has a reputation in the Member State concerned”, and Article 4(3), which requires that “the earlier Community trade mark has a reputation in the Community”. The same distinction is also to be found in Article 5(5) of Council Regulation 30/94 of 20 December 1993 on the Community trade mark. I cannot see any basis on which the Act, the Directive and the Regulation can be interpreted as merely requiring that the Community trade mark relied upon should have a reputation in the Member State in question. Nor did the opponent’s attorney cite any authority or commentary to support such an interpretation. Furthermore, as the applicant’s attorney pointed out, the judgment of the ECJ in Case C-375/97 *General Motors Corp v Yplon SA* [1999] ECR I-5421 at

[25]-[29], while not directly on point, tends to support the opposite interpretation.

32. It follows that the hearing officer did not make the error of law alleged.

Conclusion

33. The appeal is allowed in relation to Class 9 and “engine oil filters” in Class 7. Save as aforesaid the appeal dismissed. Accordingly the application is refused in relation to “engine oil filters” in Class 7 and in relation to Class 9 in its entirety, but otherwise may proceed to registration.

Costs

34. The hearing officer ordered the opponent to pay the applicant the sum of £1,300 as a contribution to its costs of the proceedings below. The result of the appeal is that the opponent has been partially successful, but less successful than the applicant. I will vary the hearing officer’s order so that the opponent must pay the applicant the sum of £900 as a contribution to its costs below. I will order the opponent to pay the applicant the sum of £500 as a contribution to its costs of the appeal.

15 January 2007

RICHARD ARNOLD QC

Stephen Wise of Raworth Moss & Cook appeared for the applicant.

Jeremy Pennant of D. Young & Co appeared for the opponent.