

**O-220-17**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF APPLICATION NO. 3142587 BY  
ONE LIFE EUROPE LIMITED  
TO REGISTER:**

**One Life**

**AS A TRADE MARK IN CLASS 9**

**AND**

**IN THE MATTER OF OPPOSITION THERETO  
UNDER NO. 406467 BY MEDION AG**

## **BACKGROUND & PLEADINGS**

1. On 31 December 2015, One Life Europe Limited (“the applicant”) applied to register **One Life** as a trade mark for: “Mobile Phone Accessories” in class 9. The application was published for opposition purposes on 22 January 2016.

2. On 20 April 2016, the application was opposed by Medion AG (“the opponent”) under section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). The opponent is the owner of European Union Trade Mark (“EUTM”) registration no. 4585295 for the trade mark **LIFE** which was applied for on 10 August 2005 and entered in the register on 9 February 2015. Although registered for a range of goods and services, the opponent relies only upon its goods in class 9 (full details of which can be found in the Annex to this decision) and in relation to which, it states, “in particular, mobile telephones.”

3. The opponent states:

“The applicant’s mark One Life is visually, aurally and conceptually very similar and confusingly similar overall to opponent’s LIFE mark. Applicant’s specified goods in class 9 are closely similar and complementary to [the goods mentioned in paragraph 2 above].”

4. The applicant filed a counterstatement in which the basis of the opposition is denied. As these are the only comments I have from the applicant, they are reproduced below verbatim:

“We have made an application to register trademark word “One Life” listing to Class 9 and our services are “mobile phone accessories.” Opponent has trade mark registered as “On-life” which entirely different from “one life”. Two different word with two different meaning. Opponent also has a special character used in his trademark. We disagree to the opponent’s concern.”

5. In these proceedings, the opponent is represented by Page Hargrave; the applicant has represented itself. Only the opponent filed evidence. Although neither party elected to attend a hearing, the opponent filed written submissions in lieu of attendance.

### **The opponent's evidence**

6. This consists of a witness statement from Mr Keith Gymer, a trade mark attorney at Page Hargrave. Attached to Mr Gymer's statement are eleven exhibits, each of which consists of a decision (issued by a range of bodies) which Mr Gymer states shows:

“2...where marks comprising the component “LIFE” have been successfully challenged by the opponent.”

These are as follows:

(i) A decision of this tribunal (opposition 95892) involving the trade mark D-Life.

(ii) A judgment of the Court of Justice of the European Union (“CJEU”) involving the trade mark THOMSON LIFE (C-120/04).

(iii) A decision of the General Court (T-460/07) involving the trade mark LIFE BLOG.

(iv) A decision of the European Union Intellectual Property Office's (“EUIPO”) Board of Appeal (R-141/2007-02) involving the trade mark LIFE BLOG.

(v) A decision of the German Patent Court (29 W (pat) 195/02) accompanied by a partial English translation involving the trade mark T-LIFE.

(vi) A decision of the EUIPO Opposition Division (no. B2256793) involving the trade mark LifeCLM.

(vii) A decision of the EUIPO Opposition Division (no. B2142183) involving the trade mark OXILIFE.

(viii) A decision of the EUIPO Opposition Division (no. B1955437) involving the trade mark MOUNTAIN LIFE.

(ix) A decision of the EUIPO Opposition Division (no. B1899460) involving the trade mark e.Life.

(x) A decision of the EUIPO Opposition Division (no. B1883795) involving the trade mark WIKILIFE.

(xi) A decision of the EUIPO Opposition Division (no. B1154550) involving the trade mark ERGO Life.

7. In its submissions, the opponent also refers to a decision of this tribunal in opposition no. 406593, in which the opponent opposed the trade mark LIIFE in classes 9, 38, 41 and 42 on the basis of the earlier trade mark mentioned in paragraph 2 and in relation to which it was substantially successful. In that decision, the Hearing Officer commented upon the eleven decisions mentioned above in the following terms:

“8. I do not consider it necessary to summarise the content of the above decisions. This is for a number of reasons, which are, in no particular order:

Decisions vi) to xi) are from the EUIPO Opposition division and, thus, have limited persuasive value. The same can be said of decision i), an earlier decision of this tribunal.

All of the decisions, save for i) and vii), were based upon an average consumer outside of the UK.

The decisions deal more with questions to do with composite marks where the aspect of similarity was the same, as opposed to the type of conflict here, where the common element has a difference (a significant one according to the applicant).

Each case must be considered on its own merits.”

8. In its submissions, the opponent states:

“18. In light of the Hearing Officer’s comments [above]...we would like to make the following observations:

- (i) This evidence was presented to demonstrate to the applicant as much as to the Tribunal, the number of prior disputes of a similar nature in which the opponent has prevailed, and to provide the Tribunal with copies for reference;
- (ii) We recognise, of course, that each case is ultimately to be determined on its own merits, and that with the (present) exception of the decisions of the CJEU and General Court, they are representative rather than persuasive;
- (iii) Although the present dispute requires consideration in relation to an ordinary consumer in the UK, the opponent’s mark is an EUTM, and, for now, the UK remains in the EU, so we believe there are reasonable grounds for providing details of consistent decisions in other EU jurisdictions; and
- (iv) The present case does relate to a composite mark “One Life”, where the aspect of similarity of the common element “LIFE” is analogous.”

9. I will keep all of the above in mind in reaching a conclusion.

## DECISION

10. The opposition is based upon section 5(2)(b) of the Act which reads as follows:

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

(b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected,

there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark.”

11. An earlier trade mark is defined in section 6 of the Act, which states:

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

(a) a registered trade mark, international trade mark (UK), Community trade mark or international trade mark (EC) 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,

(2) References in this Act to an earlier trade mark include a trade mark in respect of which an application for registration has been made and which, if registered, would be an earlier trade mark by virtue of subsection (1)(a) or (b), subject to its being so registered.”

12. In these proceedings, the opponent is relying upon the trade mark shown in paragraph 2 above which qualifies as an earlier trade mark under the above provisions. As this trade mark had not been registered for more than five years at the date when the application was published, it is not subject to proof of use, as per section 6A of the

Act. As a consequence, the opponent is entitled to rely upon all of the goods it has identified.

### **Section 5(2)(b) – case law**

13. The following principles are gleaned from the decisions of the courts of the European Union 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.

#### **The principles:**

(a) The likelihood of confusion must be appreciated globally, taking account of all relevant factors;

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other

components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

(e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;

(f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

(g) a lesser degree of similarity between the goods or services may be offset by a greater degree of similarity between the marks, and vice versa;

(h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has been made of it;

(i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;

(j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense;

(k) if the association between the marks creates a risk that the public will wrongly believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

## **Comparison of goods**

14. In its Notice of opposition, the opponent relied upon its goods in class 9 and, “in particular, mobile telephones”. In its submissions, however, it also points to other goods

in its class 9 specification which it characterises as “potentially more pertinent”. As these goods fall within its original pleading, they may also be taken into account. The goods are shown below (and highlighted in the Annex to this decision).

The opponent’s goods	The applicant’s goods
Computer programs (downloadable), batteries, electronic pens [visual display units], wire connectors (electricity), chargers for electric batteries, loudspeaker boxes, headphones, microphones, mobile telephones.	<b>Class 9 - Mobile Phone Accessories</b>

15. In the judgment of the CJEU in *Canon*, Case C-39/97, the Court stated at paragraph 23 of its judgment that:

“In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, inter alia, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary”.

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

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

- d) In the case of self serve consumer items, where in practice they are respectively found or likely to be found in supermarkets and in particular whether they are, or are likely to be, found on the same or different shelves;
- e) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.

17. In *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06, the General Court (“GC”) 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”.

18. Finally, in *Gérard Meric v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)* case T-133/05, the 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 T-110/01 *Vedial v OHIM – France Distribution (HUBERT)* [2002] ECR II-5275, paragraphs 43 and 44; and Case T- 10/03 *Koubi v OHIM – Flabesa (CONFORFLEX)* [2004] ECR II-719, paragraphs 41 and 42).”

19. In its submissions, the opponent states:

“6. It is submitted that, having regard, in particular, to the [goods shown above], the goods specified in the opponent’s registration clearly include goods which would be considered “Mobile Phone Accessories” or directly complementary (e.g. mobile telephones, *per se*).

7. For example, “Mobile Phone Accessories” may include batteries, chargers, connecting cables (“wire connectors”), loudspeaker units (e.g. connected via Bluetooth), headphones, microphones, stylus pens for touchscreens (c.f. electronic pens for VDUs) mobile phone “Apps” (downloadable software).

8. The respective goods are identical or closely similar.”

20. I note that in its counterstatement, the applicant does not challenge the comment contained in the opponent’s Notice of Opposition i.e. the “Applicant’s specified goods in class 9 are closely similar and complementary to [its goods]”. Collinsdictionary.com defines “accessories” as:

“items of equipment that are not usually essential, but which can be used with or added to something else in order to make it more efficient, useful, or decorative.”

21. The above definition accords with my own understanding of the word “accessories” and, more importantly, will accord with that of the average consumer. The applicant’s specification for “mobile phone accessories” is broad enough to include goods which may be used with a mobile telephone to, for example, make it more efficient. With the exception of “mobile telephones”, as many all of the opponent’s named goods, for example, “batteries”, “electronic pens [visual display units]”, “chargers for electric batteries” and “headphones” may be specifically adapted for use with mobile telephones”, they will, in my experience, be considered by the average consumer as

“accessories” for mobile telephones; they are, as a consequence, identical on the principle outlined in *Meric*.

22. As to “mobile telephones” in the opponent’s specification, these are self-evidently not identical to “mobile phone accessories” in the application; the opponent does not claim as much considering them instead to be complementary; I agree. Without a mobile telephone any accessories specifically adapted for such goods are redundant. There is, to use the words in *Boston*: “a close connection between [mobile telephones and accessories for such goods], in the sense that one is indispensable or important for the use of the other” that, in my view, will lead to the average consumer assuming “that the responsibility for those goods lies with the same undertaking”. The applicant’s goods are complementary to the opponent’s “mobile telephones” and, in my view, similar to at least a medium degree.

### **The average consumer and the nature of the purchasing act**

23. 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.”

24. The average consumer of mobile telephones and accessories for such goods is a member of the general public. Although I have no evidence or submissions to assist me, as an average consumer of such goods, I am, I think, well placed to comment upon the purchasing process. As the goods at issue are most likely to be self-selected from a bricks and mortar retail outlet or from the pages of a website, visual considerations will be an important part of the selection process. However, in view of the technological nature of the goods at issue, it is not unusual, in my experience, for average consumers to, for example, seek advice from sales assistants in a retail setting (both in-person and by telephone) and also to rely upon word-of-mouth recommendations from others, both of which indicate that aural considerations will also have a role in the selection process.

25. As to the degree of care the average consumer will display when selecting such goods, given the not insignificant cost the purchase of, in particular, a mobile telephone may involve, I would expect them to pay a fairly high degree of attention to the selection of such goods. Although the cost of accessories for such goods can vary considerably, even when selecting a relatively routine accessory such as a battery, the average consumer is likely to be conscious of factors such as size, capacity, colour and compatibility with their mobile telephone, all of which suggests they will pay at least a normal degree of attention during the selection process.

### **Comparison of trade marks**

26. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a trade 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 trade 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.”

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

<b>The opponent’s trade mark</b>	<b>The applicant’s trade mark</b>
LIFE	One Life

28. I have reproduced above the applicant’s comments in this regard (paragraph 4 refers). Unfortunately, these do not assist me because, as the opponent points out, the applicant’s submissions appear to be based upon a misunderstanding of the trade marks at issue in these proceedings i.e. in its submissions it talks about the opponent’s trade mark being registered as “On-life” (rather than “LIFE”) and also to the opponent’s trade mark including a “special character” (which it does not). In its submissions, the opponent states:

“11. Visually, aurally and conceptually “LIFE” and “One Life” will be perceived by an English consumer as substantially similar. The only distinction is the addition of the word “One”, which is of no distinctive merit in this context. Consumers would most likely take this only as a quantitative reference – i.e. to a single LIFE Mobile Phone Accessory. It is the element LIFE – the opponent’s mark – which provides (and retains) its own primary distinctive character in the applicant’s mark.

12. Overall, therefore, in the opponent’s submission, the respective marks are similar to a high degree.”

29. The opponent's trade mark consists of the ordinary English word "LIFE" presented in block capital letters. The meaning of this word is so well-known as to require no further explanation. The overall impression this trade mark conveys and its distinctiveness lies in its totality.

30. The applicant's trade mark consists of the words "One" and "Life" presented in title case. Like the word "Life", the meaning of the word "One" will also be very well-known to the average consumer. In its submissions, the opponent states that the word "One" has "no distinctive merit" and would be seen as a "quantitative reference". Whilst I agree the word "One" will be seen as quantitative in nature, in my view, the words in the applicant's trade mark create a "unit" (as in a person has "one life"). The overall impression the applicant's trade mark conveys and its distinctiveness lies in the unit it creates.

31. The parties' trade marks either consist of or contain the word "LIFE"/"Life" as a separate component; they are four and seven letters long respectively; the last four letters are identical. Notwithstanding that the word "One" appears as the first component in the applicant's trade mark, there remains, in my view, at least a medium degree of visual similarity between them. As the words of which the competing trade mark are made up will be very well-known, their pronunciation is entirely predictable i.e. the opponent's trade mark as a one syllable word and the applicant's trade mark as two one syllable words. The above, once again in my view, results in at least a medium degree of aural similarity between them. Finally, the conceptual comparison. Although the applicant's trade mark also includes the word "One", being quantitative in nature it does nothing, in my view, to modify the meaning of the word "Life" which accompanies it. As the concept conveyed by both trade marks relates to life, they are, as a consequence, conceptually similar to a high degree.

## **Distinctive character of the earlier trade mark**

32. The distinctive character of a trade mark can be appraised only, first, by reference to the goods in respect of which registration is sought and, secondly, by reference to the way it is perceived by the relevant public – *Rewe Zentral AG v OHIM (LITE)* [2002] ETMR 91. In determining the distinctive character of a trade mark and, accordingly, in assessing whether it is highly distinctive, it is necessary to make an overall assessment of the greater or lesser capacity of the trade mark to identify the goods for which it has been registered as coming from a particular undertaking and thus to distinguish those goods from those of other undertakings - *Windsurfing Chiemsee v Huber and Attenberger* Joined Cases C-108/97 and C-109/97 [1999] ETMR 585.

33. In its submissions, the opponent states:

“10. The opponent’s LIFE mark has no meaning in relation to the specified goods at issue, and is therefore inherently possessed of a normal distinctiveness, *per se*.”

34. As the opponent has filed no evidence of any use it may have made of its earlier trade mark, I have only its inherent characteristics to consider. The word “LIFE” is likely to be understood by the average consumer as suggestive of goods that will be of assistance to them in their everyday life. This suggestive quality results in the opponent’s trade mark possessing a lower than “normal” degree of inherent distinctive character; a degree I conclude is between low and medium.

## **Likelihood of confusion**

35. 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 the opponent's trade mark as the more distinctive it 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 competing goods are either identical or similar to at least a medium degree;
- the average consumer is a member of the general public who will select the goods at issue by both visual and aural means with visual selection likely to dominate the process;
- the average consumer will pay at least a normal degree of attention during the selection process;
- the overall impression and distinctiveness of the competing trade marks lies in their totalities;
- the competing trade marks are visually and aurally similar to at least a medium degree and conceptually similar to a high degree;
- absent use, the opponent's "LIFE" trade mark is possessed of a low to medium degree of inherent distinctive character.

36. In *Whyte and Mackay Ltd v Origin Wine UK Ltd and Another* [2015] EWHC 1271 (Ch), Arnold J. considered the impact of the CJEU's judgment in *Bimbo*, on the court's earlier judgment in *Medion v Thomson*. He stated:

"18 The judgment in *Bimbo* confirms that the principle established in *Medion v Thomson* is not confined to the situation where the composite trade mark for which registration is sought contains an element which is identical to an earlier

trade mark, but extends to the situation where the composite mark contains an element which is similar to the earlier mark. More importantly for present purposes, it also confirms three other points.

19 The first is that the assessment of likelihood of confusion must be made by considering and comparing the respective marks — visually, aurally and conceptually — as a whole. In *Medion v Thomson* and subsequent case law, the Court of Justice has recognised that there are situations in which the average consumer, while perceiving a composite mark as a whole, will also perceive that it consists of two (or more) signs one (or more) of which has a distinctive significance which is independent of the significance of the whole, and thus may be confused as a result of the identity or similarity of that sign to the earlier mark.

20 The second point is that this principle can only apply in circumstances where the average consumer would perceive the relevant part of the composite mark to have distinctive significance independently of the whole. It does not apply where the average consumer would perceive the composite mark as a unit having a different meaning to the meanings of the separate components. That includes the situation where the meaning of one of the components is qualified by another component, as with a surname and a first name (e.g. BECKER and BARBARA BECKER).”

21 The third point is that, even where an element of the composite mark which is identical or similar to the earlier trade mark has an independent distinctive role, it does not automatically follow that there is a likelihood of confusion. It remains necessary for the competent authority to carry out a global assessment taking into account all relevant factors.”

37. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one trade mark for the other, while indirect confusion is where the average

consumer realises the trade marks are not the same but puts the similarity that exists between the trade marks/goods down to the responsible undertakings being the same or related.

38. Although the applicant's trade mark consists of two components, I have concluded that it creates a unit. Notwithstanding that conclusion, as I have also concluded that the meaning the unit creates still relies upon the presence in it of the word "Life", it is not a conclusion that assists the applicant greatly.

39. Notwithstanding, the presence of the word "One" in the applicant's trade mark and the at least normal degree of attention likely to be paid by the average consumer during the selection process (thus making them less susceptible to the effects of imperfect recollection), direct confusion is still a real possibility. If I am thought to be wrong in that regard, I remind myself of my findings in relation to the identity/similarity in the competing goods and the degree of visual and aural similarity between the competing trade marks. Having done so and notwithstanding the limited extent of the inherent distinctive character the opponent's earlier trade mark possesses, I am, nonetheless, still satisfied that, in particular, the highly similar conceptual messages the competing trade marks will evoke in the mind of the average consumer is likely to lead him to assume that the competing goods at issue in these proceedings come from the same or economically linked undertakings i.e. there will be indirect confusion.

## **Conclusion**

**40. The opposition succeeds and, subject to any successful appeal, the application will be refused.**

## **Costs**

41. As the opponent has been successful, it is entitled to a contribution towards its costs. Awards of costs are governed by Annex A of Tribunal Practice Notice ("TPN") 4 of 2007. Using that TPN as a guide and, given its nature, having reduced the amount in

respect of the opponent's evidence, I award costs to the opponent on the following basis:

Preparing a statement and considering the applicant's statement:	£200
Preparing evidence:	£100
Written submissions:	£200
Official fee:	£100
<b>Total:</b>	<b>£600</b>

42. I order One Life Europe Limited to pay to Medion AG the sum of £600. This sum is to be paid within fourteen days of the expiry of the appeal period or within fourteen days of the final determination of this case if any appeal against this decision is unsuccessful.

**Dated this 11<sup>TH</sup> day of May 2017**

**C J BOWEN**  
**For the Registrar**  
**The Comptroller-General**

**The opponent's goods in class 9:**

Magnetic encoders; magnetic data carriers; optical data media; data-processing apparatus; optical character readers; writing and/or reading implements (data processing); magnetic data carriers; mouse (data processing equipment); optical data carriers; disc exchangers (for computers); scanners [data processing equipment]; memories for data processing installations, processors (central processing units); compact discs (read-only memory); compact discs (audio-video); computers; recorded computer programs; computer software [recorded]; games programs for computers; computer operating programs (recorded); computer peripheral devices; **computer programs (downloadable)**; computer keyboards; printers for use with computers; wrist rests for use with computers; interfaces [for computers]; laptops (computers); floppy disc drives; monitors for computers; monitors (computer hardware), navigation apparatus (computer programs) for vehicles (onboard computers); notebooks (computers); computer peripheral devices; computer programs; computer software (recorded); computer game programs; keyboards for computers; make-up removing appliances, electric; grids for electric accumulators, chargers for electric accumulators, plates for electric accumulators, electric accumulators; alarm bells, electric; connection boxes (electricity), display apparatus (electric); electronic display panels; **batteries**, electric; flat irons, electric; theft prevention installations, electric; electric wires; electrodynamic apparatus for the remote control of railway points; electric cables; electric capacitors; electromagnetic coils; electronic publications [downloadable]; **electronic pens [visual display units]**; discharge tubes, electric, other than for lighting; anti-interference devices (electricity); batteries, electric, for vehicles; electrodynamic signal remote control apparatus; photocopiers (photographic, electrostatic, thermic); inductance coils (electricity); electric devices for attracting and killing insects; **wire connectors (electricity)**; door bells (electric); **chargers for electric batteries**; hair-curlers, electrically heated; welding apparatus, electric; soldering irons, electric; solenoid valves

(electromagnetic switches); measuring devices, electric; electrically heated hair curlers; locks (electric); transmitters of electronic signals; electronic security tags for goods; socks, electrically heated; electronic pens (visual display units); buzzers electric; electronic pocket translators; electronic organisers; electric door bells; door openers, electric; door closers, electric; monitoring apparatus, electric; compact discs (audio-video); receivers (audio and video); tone arms for record players; head cleaning tapes [recording]; tone arms for record players; sound recording apparatus; tape-recorders; sound locating instruments; sound carriers; sound transmitting apparatus; sound amplifiers; sound-reproducing apparatus; amusement apparatus adapted for use with television receivers; temperature indicators; video telephones; **loudspeaker boxes**; letter scales; compact disc players; television apparatus; telephone apparatus; motion picture cameras; film cutting apparatus; radiotelephony sets; signalling bells; altimeters; cassette players; compasses; **headphones**; laser pointers (luminous pointers); **microphones**; **mobile telephones**; modems; navigational instruments; lenses (optics); mouse pads (mouse mats); plotters; projection apparatus; projection screens; slide projectors, radios; smartcards (cards with integrated circuits); video games adapted for use with television receivers only; walkie talkies; video cameras; video recorders; safety helmets for sports; none of the aforesaid goods being or featuring educational and/or entertainment content intended for general circulation; the aforementioned goods exclusive of board game programs for computers, computer board games and video board games for use with television receivers only, electronic board games, video board games for a connection to a television, board games software, cards/discs/tapes/wires/circuits for bearing or bearing board games and/or games software and/or arcade board games, board gaming machines including slot machines.