

O-484-17

TRADE MARKS ACT 1994

**TRADE MARK APPLICATION NO. 3168245
BY XERO INTERNATIONAL LTD
TO REGISTER THE TRADE MARK**

Xero.com

IN CLASSES 3 and 25

AND

**THE OPPOSITION THERETO UNDER NO. 407857
BY XERO LIMITED**

Background and pleadings

1. Xero International Ltd (“the applicant”) applied for the trade mark Xero.com on 7 June 2016 for *Perfumery; essential oils; cosmetics; make-up; eye make-up; eyeliners; blushers; lipsticks; hair lotions; soaps* in class 03; and *Clothing; footwear; headgear; swimwear; sportswear; leisurewear; clothing for children; infant wear; articles of clothing for women; sleepwear, lingerie; hosiery; nightwear; sports clothing; gymwear; beach clothing; belts [clothing]; underwear; socks; gloves; men's and women's jackets, coats, trousers, vests* in class 25.

2. The application was published on 9 September 2016. It was subsequently opposed by Xero Limited (“the opponent”) on the basis of sections 3(6), 5(2)(b), 5(3) and 5(4)(a) of the Trade Marks Act 1994 (“the Act”). The section 5(2)(b) ground was later dropped: The opponent relies upon the following earlier mark for its section 5(3) ground:

(i) EUTM 5867361

XERO

Class 9: *Computer equipment; computer software, including software packages and manuals in an electronic format sold as unit, for business management and business administration purposes including accounting solutions.*

Class 36: *Financial services, including purchase payments and bill payments services; electronic purchase payment and electronic bill payment services; electronic banking services; electronic accounts payable services; funds, money and currency transfer services; financial, advisory, consultancy and provision of financial information relating to the aforesaid services; the aforesaid services being provided electronically or by other means.*

Class 38: *Computer services relating to the provision of access to computer databases, the internet and other facilities, including providing a portal site on the*

internet providing links to other sites; providing access to databases and internet sites for the retrieval and downloading of information relating to financial affairs.

Filing date: 30 April 2007, New Zealand priority 1 November 2006; date registration procedure completed: 12 March 2008.

3. The section 5(4)(a) ground is predicated on two bases. The first is based upon the law of passing off. The opponent claims it has goodwill in relation to the sign xero.com, which has been used throughout the UK since 2007 on computer software and computer software services, for financial purposes. The second basis for the section 5(4)(a) ground is that registration would be contrary to the Trade Descriptions Act 1968 because the opponent owns xero.com as a domain name, and consumers will be misled.

4. The ground under section 3(6) of the Act ('bad faith') is pleaded as follows:

"The Applicant is a company founded and wholly owned by Michael Gleissner, who is the sole director. There are a number of companies owned by Michael Gleissner that are filing dubious trade mark applications, including ones matching domain names not owned by him or his companies. The domain name 'xero.com' is owned by the Opponent. Other domain names that are the subject of applications by one of Mr. Gleissner's companies who do not own the domain names include Panda.com No. 3154656, Viva.com No.3155303, Watt.com No.3155304, Blue.com No. 3190540 and CLEAR.COM No. 3190581..."

5. The applicant denies the grounds in a lengthy counterstatement consisting of legal submissions, which it is not necessary to record here, save for the applicant's defence in relation to the section 3(6) ground:

"32. Furthermore, it must be noted that according to the law of the UK, the owner of a trade mark is not expected to make genuine use of the mark while

examination or opposition proceedings are pending or, under any circumstance, before the five-year 'grace period' has begun.

Considering the above, there is no requirement for the Applicant to show intent to use the subject mark, as the registration is pending and the application is under opposition proceedings. In any case, a registered proprietor is entitled to make use of a trade mark at any point during the five-year grace period; there is no strict requirement to prove the intent to put a mark to use immediately before or after the registration. In certain cases, according to the UK law, an owner is not required to put its trade mark to use until 1 day before the expiration of the 'grace period' granted by the Act upon registration. The *bona fide* intention to make use of the subject mark if and when it achieves registration can, according to UK law, only be evaluated in the course of a revocation action due to non-use after 5 years of registration. Accordingly, and in any other circumstance, the present application for registration was made in good faith and the claims of the Opponent to the contrary should be dismissed."

6. The opponent filed evidence. The matter came to be heard before me on Thursday 21 September 2017 by video conference. The opponent was represented by Mr Jaani Riordan, of Counsel, instructed by Wilson Gunn. The applicant, which is self-represented and communicates from the email address 'tm.ipo.uk@gmail.com', did not attend the hearing, and did not file written submissions in lieu of attendance.

Opponent's evidence

7. The opponent's evidence comprises two witness statements and accompanying exhibits. The first is from Gary Turner, who is the Managing Director of the opponent's wholly-owned UK subsidiary. The purpose of his evidence is to support the opponent's statement of use and to prove reputation and goodwill. The second witness statement is from Timothy Walden, who is the opponent's legal representative in New Zealand, where the opponent is based. The purpose of his evidence is to support the section 3(6) ground. At the hearing, Mr Riordan said that

the section 3(6) ground was the opponent's primary ground and that should it succeed under section 3(6), it would not be necessary to consider the section 5(3) and 5(4)(a) grounds of opposition. Consequently, for economy of procedure, I limit my summary of Mr Turner's unchallenged evidence to the following points:

- The opponent has used its trade mark XERO and its domain name xero.com since May 2006.
- The opponent leads the UK cloud accounting market, with sales of £13,300,000 in 2015 and £19,400,000 in 2016.
- The opponent has a 30% share of the UK accountancy software market and its XERO products are used by 5% of all businesses in the UK and nearly 12% of all incorporated UK businesses.

8. Mr Walden's witness statement is dated 7 April 2017. He states that his firm (James & Wells) carried out an online investigation into Michael Gleissner, his business activities and those of companies under his control. Mr Walden exhibits twelve documents, the most pertinent being:

- Exhibit TW-01: the applicant's company registration details from the website of Companies House, showing the name of Michael Gleissner as the sole shareholder and director. The company was incorporated on 2 June 2016, five days before the contested trade mark application was filed.
- Exhibit TW-02: a copy of a World Trademark Review article by Tim Lince, dated 23 August 2016, in which the writer speculates as to the reasons why Mr Gleissner has registered thousands of companies and made applications for thousands of trade marks, many of which are registered, particularly in the UK and the US. From February 2016 to the date of the article (six months), Mr Gleissner registered over a thousand company names in the UK, which were subsequently applied for as trade marks e.g. EUIPO INTERNATIONAL LIMITED applied for the trade mark EUIPO. One of the theories for the filing

strategy is that Mr Gleissner is a trader in domain names and uses registered trade marks to obtain ownership of them. In this connection, the writer says that Marco Notarnicola, a lawyer and Trademarks Manager at one of Mr Gleissner's companies, Bigfoot Entertainment Pte Ltd, once listed his job responsibilities on LinkedIn as including "manipulation of TMs and common law marks to achieve UDRP 'reverse domain name hijacking'".

- Exhibit TW-03: a very lengthy list of UK Gleissner companies and his companies' US trade marks filings, compiled by World Trademark Review, as of 19 August 2016.
- Exhibit TW-04: a copy of the IP KAT blog dated 22 September 2015 questioning the motive for the many cancellation applications brought at the EUIPO by a Gleissner-led company.
- Exhibit TW-05: a copy of the Registrar's decision, BL O/015/17, in which 68 applications by entities under Mr Gleissner's control to revoke 68 trade marks owned by Apple Inc. for non-use were struck out as an abuse of process. The applications for revocation included attacks on Apple Inc.'s trade mark registrations for IPHONE, iTUNES and APPLE.
- Exhibit TW-09: a copy of an article from the legal news section of onlinedomain.com, dated 17 August 2016. The item concern CKL Holdings N.V., a Michael Gleissner company in Belgium which had filed some 68 trademarks in the US, many of which were for common forenames. Others were for domain names such as rome.com, Tokyo.com, hongkong.com, munich.com and other major world cities.
- Exhibit TW-10: a copy of an overview of Trump International Ltd, which is owned by and under the control of Mr Gleissner, and was registered as a company on 31 October 2016.

- Exhibit TW-11: a copy of a decision by the WIPO Arbitration and Mediation Center. Bigfoot Ventures LLC (a Michael Gleissner company) was held by to have engaged in attempted ‘reverse domain name hijacking’, using the Uniform Domain Name Dispute Resolution system in an attempt to acquire the domain name slized.com. The adjudicator found that Bigfoot Ventures LLC claimed, without justification, that its registered trade mark SLIZED had a reputation as a ‘global brand’. The adjudicator also found that the complaint, brought by Bigfoot Ventures LLC, was “speculatively filed”.

Decision

9. Section 3(6) of the Act states:

“(6) A trade mark shall not be registered if or to the extent that the application is made in bad faith.”

10. In *Red Bull GmbH v Sun Mark Ltd & Anr* [2012] EWHC 1929 and [2012] EWHC 2046 (Ch) (“Sun Mark”) Arnold J summarised the general principles underpinning section 3(6) as follows:

“Bad faith: general principles

130 A number of general principles concerning bad faith for the purposes of section 3(6) of the 1994 Act/ Article 3(2)(d) of the Directive/ Article 52(1)(b) of the Regulation are now fairly well established. (For a helpful discussion of many of these points, see N.M. Dawson, “Bad faith in European trade mark law” [2011] IPQ 229.)

131 First, the relevant date for assessing whether an application to register a trade mark was made in bad faith is the application date: see *Case C-529/07 Chocoladenfabriken Lindt & Sprüngli AG v Franz Hauswirth GmbH* [2009] ECR I-4893 at [35].

132 Secondly, although the relevant date is the application date, later evidence is relevant if it casts light backwards on the position as at the application date: see *Hotel Cipriani Srl v Cipriani (Grosvenor Street) Ltd* [2009] EHC 3032 (Ch), [2009] RPC 9 at [167] and cf. Case C-259/02 *La Mer Technology Inc v Laboratoires Goemar SA* [2004] ECR I-1159 at [31] and Case C-192/03 *Alcon Inc v OHIM* [2004] ECR I-8993 at [41].

133 Thirdly, a person is presumed to have acted in good faith unless the contrary is proved. An allegation of bad faith is a serious allegation which must be distinctly proved. The standard of proof is on the balance of probabilities but cogent evidence is required due to the seriousness of the allegation. It is not enough to prove facts which are also consistent with good faith: see *BRUTT Trade Marks* [2007] RPC 19 at [29], *von Rossum v Heinrich Mack Nachf. GmbH & Co KG* (Case R 336/207–2, OHIM Second Board of Appeal, 13 November 2007) at [22] and *Funke Kunststoffe GmbH v Astral Property Pty Ltd* (Case R 1621/2006-4, OHIM Fourth Board of Appeal, 21 December 2009) at [22].

134 Fourthly, bad faith includes not only dishonesty, but also “some dealings which fall short of the standards of acceptable commercial behaviour observed by reasonable and experienced men in the particular area being examined”: see *Gromax Plasticulture Ltd v Don & Low Nonwovens Ltd* [1999] RPC 367 at 379 and *DAAWAT Trade Mark* (Case C000659037/1, OHIM Cancellation Division, 28 June 2004) at [8].

135 Fifthly, section 3(6) of the 1994 Act, Article 3(2)(d) of the Directive and Article 52(1)(b) of the Regulation are intended to prevent abuse of the trade mark system: see *Melly's Trade Mark Application* [2008] RPC 20 at [51] and *CHOOSI Trade Mark* (Case R 633/2007-2, OHIM Second Board of Appeal, 29 February 2008) at [21]. As the case law makes clear, there are two main classes of abuse. The first concerns abuse vis-à-vis the relevant office, for example where the applicant knowingly supplies untrue or misleading

information in support of his application; and the second concerns abuse vis-à-vis third parties: see Cipriani at [185].

136 Sixthly, in order to determine whether the applicant acted in bad faith, the tribunal must make an overall assessment, taking into account all the factors relevant to the particular case: see *Lindt v Hauswirth* at [37].

137 Seventhly, the tribunal must first ascertain what the defendant knew about the matters in question and then decide whether, in the light of that knowledge, the defendant's conduct is dishonest (or otherwise falls short of the standards of acceptable commercial behaviour) judged by ordinary standards of honest people. The applicant's own standards of honesty (or acceptable commercial behaviour) are irrelevant to the enquiry: see *AJIT WEEKLY Trade Mark* [2006] RPC 25 at [35]-[41], *GERSON Trade Mark* (Case R 916/2004-1, OHIM First Board of Appeal, 4 June 2009) at [53] and *Campbell v Hughes* [2011] RPC 21 at [36].

138 Eighthly, consideration must be given to the applicant's intention. As the CJEU stated in *Lindt v Hauswirth*:

“41. ... in order to determine whether there was bad faith, consideration must also be given to the applicant's intention at the time when he files the application for registration.

42. It must be observed in that regard that, as the Advocate General states in point 58 of her Opinion, the applicant's intention at the relevant time is a subjective factor which must be determined by reference to the objective circumstances of the particular case.

43. Accordingly, the intention to prevent a third party from marketing a product may, in certain circumstances, be an element of bad faith on the part of the applicant.

44. That is in particular the case when it becomes apparent, subsequently, that the applicant applied for registration of a sign as a Community trade mark without intending to use it, his sole objective being to prevent a third party from entering the market.

45. In such a case, the mark does not fulfil its essential function, namely that of ensuring that the consumer or end-user can identify the origin of the product or service concerned by allowing him to distinguish that product or service from those of different origin, without any confusion (see, inter alia, Joined Cases C-456/01 P and C-457/01 P *Henkel v OHIM* [2004] ECR I-5089, paragraph 48).”

139. There have been a series of cases in which courts and tribunals have had to consider whether a lack of intention to use the trade mark on the part of the applicant constitutes bad faith within section 3(6) of the 1994 Act/Article 3(2)(d) of the Directive/Article 52(1)(b) of the Regulation. It should be noted at the outset that there are a number of variants of this question, including the following:

(1) whether the making of a declaration of intention to use the mark as required by section 32(3) of the 1994 Act, which is false because in fact the applicant did not intend to use the mark, amounts to bad faith;

(2) whether an intention to use the mark in relation to some goods covered the application, but not others - and hence a statement of intention to use that is true in relation to the former goods, but not in relation to the latter – amounts to bad faith; and

(3) whether a lack of intention to use amounts to bad faith if there are exacerbating factors, such as (a) an attempt to obtain protection for an unregistrable mark or (b) an attempt to block others from registering the mark by repeated applications.”

11. Although the applicant is XERO INTERNATIONAL LTD, not Mr Gleissner, his motives can be attributed to the applicant because he is the sole Director of, and therefore controls, the applicant; see *Joseph Yu v Liaoning Light Industrial Products Import and Export Corporation* BL O/013/05, in which Professor Ruth Annand, sitting as the Appointed Person, held:

“22. [A] claim of bad faith is not avoided by making an application in the name of an entity that is owned or otherwise controlled by the person behind the application.”

12. The applicant has filed no evidence and no submissions in response to the opponent’s evidence. Its only response to the section 3(6) ground is contained in its counterstatement, reproduced at the beginning of this decision. The applicant’s defence to the ground is entirely predicated upon it not being obliged to use the mark until one day prior to the expiry of the five-year period following registration and that, consequentially, it is not required to show intent to use the mark:

“The *bona fide* intention to make use of the subject mark can, according to UK law, only be evaluated in the course of a revocation action due to non-use after 5 years of registration.”

13. This is wrong in law. The trade mark register shows that Michael Gleissner signed the application form, declaring that:

“The trade mark is being used by the applicant, or with the applicant’s consent, in relation to the goods or services shown, or there is a *bona fide* intention that it will be used in this way.”

Such a declaration is required by section 32(3) of the Act. (Since the applicant was only incorporated five days prior to the filing of the trade mark application, it seems highly unlikely that the ‘being used’ part of the declaration could be satisfied.) The applicant has made a declaration that it has a *bona fide* intention to use the trade mark in relation to the goods entered on the application form. The declaration is part

of the application form and is in the present tense. The relevant date for intent is the date of application: see paragraphs 131 and 138 of *Red Bull*. The applicant's defence confuses and conflates the statutory requirement that there must have been intent to use the trade mark for the goods at the date of application with the five year grace period for actual commencement of use. That the application was made without such an intention to use (i.e. in bad faith) is a claim that can be made at any time prior to, as well as after, the five-year period for commencing use by any person, including by the Registrar of Trade Marks¹.

14. The applicant's only answer to the claim is this erroneous assertion in its counterstatement, and it has failed to file any evidence as to its intentions at the time of filing the application (or afterwards). Consequently, if the opponent has established a *prima facie* case of bad faith, its opposition will succeed, as per *Ferrero SpA's Trade Marks* [2004] RPC 29, paragraph 17. I note that this was the approach taken by the Registrar's hearing officer in another case involving a Gleissner company (as the applicant), *Viva Technologies Ltd v Viva Media GmbH*, BL O/418/17:

“As the case law indicates, it is important to evaluate the applicant's intentions at the time of the application in assessing the merit of such bad faith claims. This is plainly more difficult where the applicant offers no explanation as to its intentions and rests its case on formal denials. In these circumstances, the applicant's intentions can only be assessed based on the objective factors surrounding the application. Where such factors are sufficient, when considered collectively, to create a *prima facie* case of bad faith, the opposition will succeed in the absence of a satisfactory explanation or rebuttal from the applicant.”

¹ In *Fianna Fail and Fine Gael v Patrick Melly* [2008] ETMR 41, Mr Geoffrey Hobbs QC, sitting as the Appointed Person, observed that “Bad faith is an absolute, hence free-standing, ground for refusal of registration. It can be raised in relation to matters arising between applicants and third parties as well as between applicants and the Registrar.”

15. In the *Viva* case, the applicant, Viva Technologies Limited², applied to register a domain name as a trade mark, Viva.com. It did not own the domain name viva.com. The hearing officer said this:

“The mere fact that the applicant does not own the domain name address corresponding to the contested trade mark does not necessarily mean it cannot be used in trade. It simply means that it cannot also be used as a domain name address. Taken by itself the applicant’s first point is not therefore sufficient justification for a finding that the application was filed in bad faith. Having said that, the natural way to use a trade mark corresponding to a domain name address would be in connection with a website located at that address. The opponent’s point therefore raises a serious question as to whether the applicant really intends to use the mark without using the corresponding domain name address⁶. The applicant has not answered this point. The applicant merely asserts that its intention to use the mark cannot be challenged until the mark has been registered for 5 years. However, as the opponent’s representative points out, that is not the case if it has shown that, contrary to the declaration made on the form of application, the applicant had no *bona fide* intention to use the trade mark at the date of filing the application.

⁶ The use of trade marks corresponding to telephone numbers has been held to be liable to cause confusion where the trade mark applicant has never held the telephone number. See *1-800 Flowers Inc v Phonenames Ltd* [2001] EWCA Civ 721. By analogy, this must also apply to trade marks comprising domain name addresses.”

16. The opponent’s evidence shows that it owns the domain name address xero.com and that it has used the website xero.com, and the corresponding trade mark XERO, to such an extent that it has a 30% share in the UK accountancy software market and is the UK market leader. As observed in *Viva*, the natural way to use a trade mark corresponding to a domain name address would be in connection with a website located at that address. The applicant cannot do this because it does not own the domain name; the opponent owns it (highly successfully). Like the hearing officer in *Viva*, I consider that there is a serious

² In circumstances analogous to the present case, the applicant was incorporated nine days before it filed the application for Viva.com.

question as to whether the applicant really intends to use the mark Xero.com without also using the corresponding domain name address xero.com.

17. The opponent claims that the applicant is following a pattern of behaviour exhibited by a number of companies founded and wholly owned by Michael Gleissner, i.e. filing trade mark applications which match the domain names of third parties. The opponent calls the applications 'dubious'. The function of a trade mark is to guarantee the trade mark as an indication of trade origin for the goods and/or services for which it registered by distinguishing those goods and services from those of other undertakings³. This must, therefore, be the intention of the applicant if it is to fulfil section 32(3) of the Act. If the application has been made with some other purpose, it follows that it cannot comply with the statement required by section 32(3) because the application has not been made *bona fide*. This explains the opponent's choice of the word 'dubious applications'.

18. The CJEU has stated that consideration must be given to the applicant's intention at the time when the application was filed (*Lindt v Hauswirth*). The applicant is silent as to its intention. As the hearing officer said in *Viva*, given its silence, the applicant's intentions can only be assessed based on the objective factors surrounding the application in order to decide whether the opponent has presented a *prima facie* case. The information from the press reports is hearsay. However, the applicant has not answered the hearsay evidence which indicates that Mr Gleissner owns a large number of shelf companies which, in turn, own a large number of trade marks. Nor has it responded to the findings in the published legal decisions adduced in evidence by the opponent: the *Apple* case and the WIPO arbitration panel decision.

19. The latter decision found that a company owned and controlled by Mr Gleissner had engaged in 'reverse domain name hijacking'. The IPKAT article refers to the theory that such activity is the purpose behind Mr Gleissner's strategy of filing domain names as trade marks. This has not been rebutted; it would have been

³ Recitals 16 and 31 of Directive (EU) 2015/2436, with which the Trade Marks Act 1994 is harmonised.

simple enough to have filed evidence of intention to use Xero.com as an indicator of trade origin of the goods in the application, if the application had been filed in good faith. 'Reverse domain name hijacking' was recorded as part of Mr Notarnicola's job description. Mr Notarnicola signed the counterstatement in another opposition case before the Registrar, BL O/442/17, *Paper Stacked Limited v CKL Holdings NV*, in which the applicant (a Gleissner company) was found to have applied for the mark ALEXANDER in bad faith. The opponent in that case presented a *prima facie* case that the application was part of a blocking strategy to obtain financial gain from third parties who are likely to be using, or wish to use, such a common forename as a trade name to distinguish their goods and services.

20. Cited by Arnold J in *Red Bull*, paragraph 21 of *CHOOSI Trade Mark* (Case R 633/2007-2, OHIM Second Board of Appeal, 29 February 2008) states:

“Article 51(1)(b) CTMR^[4] does not therefore allow applications for registration of trade marks to be made for abusive or fraudulent ends which are contrary to the objectives pursued by Community trade mark law. In such a hypothesis the applicant's purpose is not to protect a trade mark according to its distinctive function but to wield the registration as a weapon or tool to reach an abusive or fraudulent end deviated from the legitimate functions of trade marks, the protection of which are the objectives pursued by the Community trade mark law.”

21. Filing trade mark applications speculatively would constitute such an abuse of process. The opponent has made out a *prima facie* case on the facts I have described, which has not been answered by the applicant, other than its erroneous legal submission in the counterstatement. This submission, in itself, invites an inference that the application was made speculatively because the applicant's position is that intention to use the mark can only be assessed at a later date; i.e. if, at some undefined point in the future, an opportunity to use it arises. I accept the

⁴ “A Community trade mark shall be declared invalid on application to the Office or on the basis of a counterclaim in infringement proceedings.

(a) ...

(b) where the applicant was acting in bad faith when he filed the application for the trade mark.”

opponent's claim and reject the applicant's denial of the section 3(6) ground. The application was made in bad faith.

Outcome

22. The opposition succeeds under section 3(6) of the Act. The application is refused. It is unnecessary to consider the other grounds of opposition.

23. I record here that Mr Riordan, whilst primarily relying upon the section 3(6) ground of opposition and submitting that if this succeeded it would be unnecessary to consider the other grounds, nevertheless invited me to do so because the opponent had filed evidence of use and because it would be useful to the opponent if I made findings about reputation and goodwill based upon that evidence.

24. I decline to do so. I have made a clear finding under section 3(6) which disposes of the proceedings. Spending time on the other grounds would run contrary to the Tribunal's objective of dealing with cases in ways which are proportionate and allotting an appropriate share of the Tribunal's resources, while taking into account the need to allot resources to other cases.

Costs

25. The opponent has been successful and is entitled to a contribution towards its costs. It seeks costs off the scale (the scale is published in Tribunal Practice Notice 2/2016) "to reflect the Applicant's unreasonable and bad faith conduct..."

26. A losing party should not be considered to have acted unreasonably simply because it lost. That general proposition is less true when it comes to findings that a party registered a mark in bad faith because such a finding necessarily means that the party should have realised that what it was doing was wrong, even if it did not do so. Nevertheless, there are degrees of behaviour which constitute bad faith ranging from outright dishonesty to behaviour which, although not dishonest, falls below the standards of acceptable commercial behaviour observed by reasonable people in

the relevant field of activity. It does not therefore follow that a finding of bad faith automatically justifies an award of costs off the usual scale.

27. I consider that this case falls into the latter category. I have not made a finding of outright dishonesty and the applicant filed no evidence which required testing, so as to put the opponent to extra costs. The award of costs will be on scale, as a contribution to the opponent's costs.

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| Opposition fee | £200 |
| Preparing a statement and considering the counterstatement | £600 |
| Filing evidence | £1000 |
| Preparation for and attending the hearing | £1000 |
| Total | £2800 |

28. I order Xero International Ltd to pay Xero Limited the sum of £2800 which, in the absence of an appeal, should be paid within fourteen days of the expiry of the appeal period.

Dated this 06th day of October 2017

Judi Pike
For the Registrar,
the Comptroller-General