

O-309-18

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NO. 3175962
BY KISSPAY PTY LIMITED
TO REGISTER THE TRADE MARK:**

KissPay

IN CLASS 36

AND

**IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 407928
BY KISSKISSBANKBANK TECHNOLOGIES**

Background and pleadings

1. On 22 July 2016, KissPay Pty Limited (“the applicant”) applied to register the trade mark **KissPay** for the following services:

Class 36 Fund raising services via crowdfunding website.

2. A priority date of 20 July 2016 is claimed. The application was published for opposition purposes on 19 August 2016. It is opposed by KISSKISSBANKBANK TECHNOLOGIES (“the opponent”). The opposition, which is based upon section 5(2)(b) of the Trade Marks Act 1994 (“the Act”), is directed against all of the services in the application.

3. The opponent relies upon the following earlier marks:

- (i) European Union trade mark (“EUTM”) number 12554689 for the mark shown below, which has a filing date of 31 January 2014 and was entered in the register on 13 August 2014:



The mark is registered for a range of services in classes 35, 38 and 41. For the purposes of this opposition, its services in classes 35 and 38 only are relied upon, namely:

Class 35: Advertising; Dissemination of advertisements; Direct mail advertising; On-line advertising on a computer network; Rental of advertising space; Publication of publicity texts; Subscription to a telecommunication service; Arranging subscriptions to a centre providing access to computer networks or networks for the transmission of data, sound, images or moving images, in

particular via wireless networks; Subscriptions to computer databases; Promotion of works of art, mainly intended for Internet users; Online retailing via computer of works of art; Business management; Business administration; Public relations services; Theatrical agencies.

Class 38: Electronic messaging, in particular via the Internet, extranets and intranets; Computer aided transmission of messages, sound and images; Transmission and dissemination of data, sounds, still and/or moving images via telecommunications networks (Internet) of all kinds, mobile telephone networks; Telecommunications via national and international networks (Internet); Providing access to an entertainment website, all the aforesaid services relating to artistic projects crowdfunded via the trademark owner website, other than radio transmissions; Transmission of messages.

- (ii) EUTM 13916391 for the mark shown below, which has a filing date of 8 April 2015 and which was entered on the register on 10 April 2018:



The colours red, black and white are claimed. It is registered for a range of goods and services in classes 9, 35, 36, 38, 41 and 42. The following services are relied upon in this opposition:

Class 35: Advertising; Dissemination of advertising matter; Direct mail advertising; On-line advertising on a computer network; Rental of advertising space; Publication of publicity texts; Subscription to a telecommunication service; Arranging subscriptions to a centre providing access to computer networks or networks for the transmission of data, sound, images or moving images, in particular via wireless networks; Subscriptions to computer databases; Promotion of the goods and services of others via an information network; Online retailing

via computer of works of art; Business management; Business administration; Public relations services; Theatrical agencies.

Class 36: Providing of an interactive website enabling users to organise and conduct fundraising events to raise money for creative and innovative projects; art brokerage; on-line business fundraising services; providing fundraising services for others via a global computer network; Financial affairs, namely business fundraising provided on a computer network, including the internet.

Class 38: Electronic messaging, in particular via the Internet, extranets and intranets; Computer aided transmission of messages, sound and images; Transmission and dissemination of data, sounds, still and/or moving images via telecommunications networks (Internet) of all kinds, mobile telephone networks; Telecommunications via national and international networks (Internet); Providing access to an entertainment website, all the aforesaid services relating to artistic projects crowdfunded via the trademark owner website, other than radio transmissions; Transmission of messages.

Class 42: Information technology services, namely creating an online platform for presale and fundraising for creative and innovative projects; Providing a web site featuring technology that enables users to raise money for creative projects and And innovative projects; Computers services, Namely interactive hosting enabling internet users to publish and share their own content and images online.

- (iii) EUTM 13915012 for the trade mark **KissKissBankBank**, which was filed on 7 April 2015 and registered on 10 April 2018. The mark is again registered for goods and services in classes 9, 35, 36, 38, 41 and 42. For the purposes of this opposition, services in classes 35, 36, 38 and 42 are relied upon, identical to those listed above for EUTM13916391.

(iv) EUTM 8169419 for the trade mark **kisskissbankbank**, which was filed on 24 June 2009 and entered in the register on 27 October 2010. It is registered for a range of goods and services in classes 9, 25, 35, 38, 39, 41 and 42; for the purposes of this opposition, the following services are relied upon:

Class 38: Telecommunications, especially Internet, mobile television and podcasts services in relation to the projects crowd funded via the trademark owner website, with the exclusion of radio transmissions.

4. Given their dates of filing, the above marks qualify as earlier marks in accordance with s. 6 of the Act. In its notice of opposition, the opponent states that it has used EUTM 8169419 in relation to all of the services relied upon. This statement is made because that earlier mark is, in theory, subject to the proof of use provisions contained in s. 6A.

5. The opponent claims that the mark for which registration is sought is similar to the earlier marks and that the services are identical or similar. As a consequence, it claims that there is a likelihood of confusion, including the likelihood of association.

6. The applicant filed a counterstatement in which it denies the grounds of opposition and claims that “the differences are more than sufficient to enable the average consumer to identify the origin of the service at issue and to distinguish them from those of Opponent”.

7. I note that the applicant indicated, in the relevant part of the notice of defence, that it did not require the opponent to produce proof of use. As a consequence, the opponent may rely upon all of the services it has identified, for all of its marks, without providing any evidence of use.

8. The applicant is not professionally represented. The opponent has been represented throughout by Walker Morris LLP. Both parties filed evidence. The applicant also filed

written submissions during the evidence rounds. Whilst neither party asked to be heard, the applicant filed written submissions in lieu of a hearing. I will bear the submissions in mind and refer to them, as necessary, below. This decision is taken following a careful reading of all of the papers.

Evidence

Opponent's evidence in chief

9. This consists of the witness statement of Vincent Ricordeau, President of the opponent, with accompanying exhibits 1-4.

10. Mr Ricordeau explains that the opponent has been using the mark "KISSKISSBANKBANK" since March 2010, in relation to various services including crowdfunding services. He exhibits a print from Wikipedia about the company.¹ He asserts that the exhibit shows that "the Opponent is *"one of Europe's leading participatory financing sites"*". However, the evidential value of Wikipedia is limited, given that it may be edited by anybody, at any time. Although many of the article's sources are said to be dated between 2012 and 2014, they are not in evidence and the prints show that the entry was modified on 7 January 2017.

11. Mr Ricordeau provides a print from oxforddictionaries.com, which defines "crowdfunding" as "[the] practice of funding a project or venture by raising money from a large number of people who each contribute a relatively small amount, typically via the internet".²

12. At exhibit 3 are prints from the opponent's website regarding "KissBankers". Mr Ricordeau claims that the opponent has used this term on its website and marketing materials since 2010, though the exhibit itself bears a copyright date of 2017 (along with

¹ Exhibit 1.

² Exhibit 2, p. 7.

a printing date in January 2017). However, given that “kissbankers” is not a mark involved in these proceedings, it is unclear how the exhibit assists.

13. Mr Ricordeau also exhibits a print of the opponent’s Twitter feed, “which shows that the Opponent’s username is @kissbankers”.³ A joining date of 2010 is shown. It does not assist.

Applicant’s evidence

14. The applicant’s evidence is a witness statement of Neil Holmes, Managing Director and Chief Executive of the applicant, with one exhibit.

15. Mr Holmes provides information about the applicant’s services and “platform”.⁴ The source of the information is not given, nor is the exhibit dated. Given the notional basis of the comparison before me (see paragraph 22, below), it is not relevant.

Opponent’s evidence in reply

16. This takes the form of the witness statement of Jennifer Good, a trade mark attorney at the opponent’s professional representatives, with accompanying exhibits JKG1-JKG3.

17. Exhibit JKG1 is a print said to be from the *Collins* dictionary, which defines the word gratuity. Exhibit JKG2 is a print of information from HMRC about gratuities and tips. Given the specifications at issue, it is unclear how either of these exhibits is relevant.

18. Exhibit JKG3 consists of prints from TMClass for the terms “payment processing services” and “issuing and redemption of tokens of value”. Most of the exhibit is not in English and, in the absence of any commentary, it is not clear how this would assist.

³ Exhibit 4.

⁴ Exhibit 1.

Decision

19. I intend to focus initially on the opponent's position under EUTM13915012 as, taking into account its specification and that it is a word-only mark, it represents, in my view, the opponent's strongest case. I will consider the remaining marks only if it becomes necessary.

20. The opposition is based upon s. 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”.

21. The following principles are gleaned from the decisions of the EU courts in *Sabel BV v Puma AG*, Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, *Matratzen Concord GmbH v OHIM*, Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C-120/04, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P and *Bimbo SA v OHIM*, Case C-591/12P. The principles are:

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

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

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

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

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

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

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

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

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

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

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

Comparison of services

22. I note that the applicant has both filed evidence explaining the nature of the particular services offered by the applicant company and made submissions on the point. However, as I indicated above, that information is not relevant to this decision because the comparison which must be made is on the basis of a notional assessment of the parties' services. This means that I must compare the respective specifications as they stand on the register, not the specific services on which either trade mark has been, or is intended to be, used.⁵ Unless the differences between the services are evident from the specification, they are not relevant.

23. In *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T- 133/05, the General Court ("GC") stated that:

⁵ On the notional assessment of the earlier specification, see *Compass Publishing BV v Compass Logistics Ltd* [2004] RPC 41 at [22], *Roger Maier v ASOS* [2015] EWCA Civ 220 at [78] and [84]; regarding the applied-for specification, see *O2 Holdings Limited, O2 (UK) Limited v Hutchison 3G UK Limited* (CJEU), Case C-533/06 at [66].

“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 trade mark application (Case T-388/00 *Institut fur Lernsysteme v OHIM- Educational Services (ELS)* [2002] ECR II-4301, paragraph 53) or where the goods designated by the trade mark application are included in a more general category designated by the earlier mark”.

24. The same applies by analogy to services. The applicant seeks registration for “fund raising services via crowdfunding website” in class 36. The earlier mark is registered for, among other things, “providing fundraising services for others via a global computer network”. The applicant’s fundraising services by way of a crowdfunding website are encompassed by the broader term in the opponent’s specification. The services are, therefore, identical on the principle outlined in *Meric*. Given the identity of these services, there is no need for me to consider whether the opponent’s remaining services are similar to the applied-for services, as it would not improve the opponent’s position.

The average consumer and the nature of the purchasing act

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

26. Neither party has provided submissions on the issue of the average consumer. The average consumer of crowdfunding services is likely to include members of the public, either donating money or wishing to organise their own crowdfunding campaign. There is also potential for the average consumer to include business users who wish to avail themselves of a crowdfunding service, although it seems more likely than not that businesses using the services will be small businesses or start-up companies, rather than large, established ones.

27. I have no evidence regarding the costs associated with these services. Given that a financial transaction is involved, it is unlikely to be a particularly casual purchase. For both groups of average consumer, consideration is likely to be given to factors such as ease of use and reliability of the service provider, as there are potentially large sums at stake. The average consumer may also consider the terms of the transaction (which, as I understand it, is not finalised unless the total fundraising target is reached) and attention will be paid to ensuring the recipient is correctly identified. Both groups of average consumer will, therefore, pay a reasonably high, though not the very highest, degree of attention when selecting the services.

28. Given that the identical services at issue are provided online, there is likely to be a significant visual aspect to the purchase. The consumer is likely to be exposed to the marks on websites but may also encounter the marks in advertisements, for example, in magazines and newspapers. I do not discount an aural aspect to the purchase, arising primarily from word-of-mouth recommendations.

Comparison of trade marks

29. 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 the trade marks, bearing in mind their distinctive and dominant components.

30. The Court of Justice of the European Union (“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”.

31. It would be wrong, therefore, to dissect the trade marks artificially, although it is necessary to take into account the distinctive and dominant components of the trade marks and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions created by the trade marks.

32. The trade marks to be compared are as follows:

Opponent’s trade mark	Applicant’s trade mark
KissKissBankBank	KissPay

33. The opponent claims in its statement of grounds that the “distinctive and dominant element of the Opponent’s prior rights is ‘KISSKISS’”. It also claims that “[as] ‘Pay’ is non-distinctive in relation to monetary services, the distinctive and dominant element of the Sign is the word ‘Kiss’”.

34. The applicant denies in its counterstatement that “the trademark KISSKISSBANKBANK can claim a dominant element of KISSKISS more so than it can of BANKBANK. KISSKISSBANKBANK in word and figuratively are equal in size, colour, font and weight”.

35. The earlier trade mark consists of the sequence “KissKissBankBank”. “Kiss” and “Bank” are common words which, particularly given the capitalisation of the letters “K” and “B”, are clearly recognisable in the mark. In relation to the services at issue, the word “Bank” is non-distinctive. However, its repetition and conjoining with the words “KissKiss” is not an obvious one. I do not consider that “BankBank” will be overlooked or ignored by the consumer, nor that one part of the mark materially dominates the other. The overall impression rests in the mark as a whole.

36. The mark applied for consists of the words “Kiss” and “Pay” conjoined, presented with the “K” and “P” in capitals and the remaining letters in lower case. The element “Pay” has little or no distinctiveness in relation to the services but, again, its combination with the word “Kiss” is unusual. The overall impression rests in the mark as a whole.

37. Visually, both marks begin with the same first four-letter word “Kiss”. There are differences because of the repetition of the word “Kiss” in the opponent’s mark and because the second half of each mark has no resemblance to the later part of the other party’s mark (“BankBank” against “Pay”). At sixteen letters long, the opponent’s mark is more than double the length of the seven-letter application. However, bearing in mind my assessment of the overall impression, I consider that the marks are visually similar to a fairly low (i.e. between low and medium) degree.

38. The earlier mark is four syllables long, as compared to the two syllables of the contested mark. Given the conjoining and repetition of the words in the earlier mark, it is likely that all of the words will be articulated by the average consumer. It is probable that the same will apply to the contested mark, though I accept the possibility that some consumers will articulate only the word “Kiss”. The marks are identical in their first word

“Kiss”. The same word is repeated in the earlier mark and is followed by the words “BankBank”, which have very little, if any, aural similarity to the word “Pay”. Bearing in mind my assessment of the overall impression, and that the aurally identical element of the marks is at the beginning, I consider that there is fairly low degree of aural similarity between the marks.

39. Both marks share the concept of a kiss. There is some conceptual difference because of the ideas of “bank” and “pay”, though those elements have little or no distinctiveness in relation to the services at issue. The marks are conceptually similar to a high degree.

Distinctive character of the earlier trade mark

40. The distinctive character of the earlier mark must be assessed, as the more distinctive the earlier mark, either inherently or through use, the greater the likelihood of confusion (*Sabel* at [24]). In *Lloyd Schuhfabrik*, the CJEU stated that:

“22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-2779, paragraph 49).

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount

invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51)".

41. The opponent has not explicitly claimed that the earlier marks have an enhanced distinctive character through use. I note, however, that Mr Ricordeau pointed in his evidence to the position of the opponent's business in the relevant European sector, though it is not clear whether that evidence is intended to support a claim of enhanced distinctive character. In any event, the evidence is not sufficient to establish an enhanced level of distinctive character, there being no indication of the opponent's turnover or sales under the mark and no reliable evidence of its market position. I therefore have only the inherent position to consider. I indicated, above, that the word "Bank" is non-distinctive in relation to the services. The same is not true of "Kiss", which is distinctive. I also bear in mind that the combination of the words is not an obvious one. Taking into account all of the above, I consider that the earlier mark has an average degree of inherent distinctive character.

Likelihood of confusion

42. The factors considered above have a degree of interdependency (*Canon* at [17]), i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective services and vice versa. A global assessment of the competing factors must be made when determining whether there is a likelihood of confusion (*Sabel* at [22]). It is a matter of considering the various factors from the perspective of the average consumer and deciding whether they are likely to be confused. In making my assessment, I must keep in mind 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 (*Lloyd Schuhfabrik* at [26]). Confusion can be direct (where the average consumer mistakes

one mark for the other) or indirect (where the average consumer realises the marks are not the same but puts the similarity that exists between the marks/services down to the responsible undertakings being the same or related). The different types of confusion were explained by Iain Purvis, Q.C., sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc.*, Case BL O/375/10, where he stated that:

“16. Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different from the earlier mark. It therefore requires a mental process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: “The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark.

17. Instances where one may expect the average consumer to reach such a conclusion tend to fall into one or more of three categories:

(a) where the common element is so strikingly distinctive (either inherently or through use) that the average consumer would assume that no-one else but the brand owner would be using it in a trade mark at all. This may apply even where the other elements of the later mark are quite distinctive in their own right (“26 RED TESCO” would no doubt be such a case).

(b) where the later mark simply adds a non-distinctive element to the earlier mark, of the kind which one would expect to find in a sub-brand or brand extension (terms such as “LITE”, “EXPRESS”, “WORLDWIDE”, “MINI” etc.).

(c) where the earlier mark comprises a number of elements, and a change of one element appears entirely logical and consistent with a brand extension (“FAT FACE” to “BRAT FACE” for example”).

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

44. On the one hand, the services at issue are identical. That points towards confusion. On the other hand, the marks are visually and aurally similar only to a fairly low degree, which is in the applicant’s favour. The reasonably high level of attention will also mitigate against confusion. I do not consider that one mark will be mistaken for the other: there is no risk of direct confusion. However, indirect confusion must also be considered. The marks share the concept of a kiss. Any other conceptual difference is non-distinctive (“Bank” and “Pay”). Moreover, despite a fairly low degree of visual and aural similarity, that is in part attributable to the fact that the identical word “Kiss” is repeated in the earlier mark. I consider that the average consumer will, in the absence of any distinctive conceptual difference, and given the average level of distinctive character of the earlier mark, assume that the services emanate from the same or connected undertakings. There is a likelihood of indirect confusion.

Conclusion

45. The opposition has been successful. Subject to appeal, the application will be refused.

Final remarks

46. As the opposition has succeeded in full, it is not necessary to examine the case based upon the opponent's other trade marks, as its position would not be materially improved.

Costs

47. The opponent has been successful and is entitled to an award of costs. Awards of costs in proceedings commenced after 1 July 2016 are governed by Tribunal Practice Notice ("TPN") 2/2016. Although both parties filed evidence, I make no award in respect of it as the opponent's evidence was of no assistance and the applicant's evidence was brief in the extreme (less than two pages in total). I award costs to the opponent on the following basis:

Official fee:	£100
Preparing the notice of opposition and considering the counterstatement:	£200
Total:	£300

48. I order Kisspay Pty Limited to pay KISSKISSBANKBANK TECHNOLOGIES the sum of **£300**. 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 18th day of May 2018

**Heather Harrison
For the Registrar**