

## O-202-03

TRADE MARKS ACT 1994  
IN THE MATTER OF APPLICATION No 80709  
BY W H SMITH RETAIL LIMITED  
FOR A DECLARATION OF INVALIDITY

IN RESPECT OF TRADE MARK No 2267530

### **EXPERIENCE**

STANDING IN THE NAME OF  
RED LETTER DAYS PLC

### **DECISION**

1) Trade mark registration No 2267530 is registered with the following specification of goods:

Class 16: "Printed matter; printed publications; books; vouchers; gift vouchers; gift certificates; postcards; stationery; information leaflets; brochures; catalogues."

Class 36 "Issuing of vouchers; issuing of gift vouchers; issuing of gift certificates."

2) The registration with effect from 18 April 2001 is in the name of Red Letter Days Plc and is for the mark EXPERIENCE.

3) By an application dated 24 January 2002 W H Smith Retail Limited applied for a declaration of invalidity. The terms, which have been amended, are in summary:

i) The applicant and a significant other number of persons in the trade commonly use the word "EXPERIENCE" in relation to the goods and services included in the proprietor's specification. The word "experience" is used to describe the intended purpose of these certificates, namely to provide the recipient with "an experience" or to enable the recipient to experience some new or favourite activity. Such experiences include driving experiences, flying experiences, sailing experiences etc. The general public buys such gift certificates knowing that the voucher entitles the recipient to such an experience. It is similar to a member of the public buying a book voucher knowing that the voucher would entitle them to buy a book.

ii) The applicant therefore submits that the word EXPERIENCE does not qualify as a trade mark under Section 1(1) or 3(1)(a) of the Trade Marks Act 1994 as it is not capable of distinguishing the goods or services of one undertaking from those of other undertakings.

iii) Furthermore, the applicant submits that due to its wholly descriptive nature, the word "Experience" is devoid of distinctive character in relation to the goods and services for which it is registered and therefore offends against Section 3(1)(b) of the Trade Marks Act 1994.

iv) Furthermore, it is submitted that the mark in suit consists exclusively of a sign or indication which serves in trade to designate the characteristics of the goods and services

for which registration has been obtained. The mark therefore offends against Section 3(1)(c) of the Trade Marks Act 1994.

v) Furthermore, the mark in suit is customary in the current language and in the bona fide and established practices of the relevant trade and the registration therefore offends against Section 3(1)(d) of the Trade Marks Act 1994.

4) The registered proprietor filed a counterstatement defending the registration and denying the applicant's claims. Both sides ask for an award of costs.

5) Both sides filed evidence in these proceedings and the matter came to be heard on 4 April 2003 when the applicant was represented by Ms Bucks of Messrs Boulton Watt Tennant. The Registered Proprietor was represented Mr Fiddes of Messrs Urquhart-Dykes & Lord.

#### APPLICANT'S EVIDENCE

6) The applicant filed three witness statements. The first, dated 3 May 2002, is by Teresa Anne Bucks the applicant's Trade Mark Attorney. She describes how she carried out an Internet search in April 2002 and found a number of sites where the word "experience" was used in relation to vouchers or certificates. Ms Bucks then selected eight sites and printed extracts which show the mark in suit being used in connection with the offering of activities, events or vouchers which can be redeemed against such experiences. These sites domain names were examined and in seven cases the domain registration predates the relevant date. Print outs of these sites are provided at Exhibit TAB2. Although these show use of the term "experience" in their pages, only one would appear to be the word as part of its domain name "experiencesagency.com". It appears that this was registered on 12 December 2000.

7) Ms Bucks states that the Chambers On-Line Dictionary provides the following definition of the mark in suit:

"Experience: noun 1 practice in an activity. 2 knowledge or skill gained through practice. 3 wisdom gained through long and varied observation of life. 4 an event which affects or involves one."

8) Ms Bucks states that this definition describes what a customer is purchasing, either for themselves or for another party when they purchase an "experience" gift voucher or activity, namely the practice of an activity or an event in which they will become involved. She equates this to the purchase of a book voucher which entitles the bearer to exchange it for a book.

9) Ms Bucks states that she has examined the proprietor's web site and produces an extract from it at exhibit TAB3. She states that it is clear that the proprietor is using the word "experience" in a descriptive way, similar to the users identified at exhibit TAB2. She points out that at page one the website states "since 1989 Red Letter Days has pioneered the concept of experiences as unforgettable gifts and incentives." On the fourth page it refers to "Giving a Red Letter Days Experience Voucher is a brilliant, flexible way to treat someone to the adventure of a lifetime". From this evidence Ms Bucks concludes that the mark in suit is "incapable of acting as a trade mark not least because it is descriptive of the goods and services in question. Furthermore as it

is a word which has become customary in the language and in the established practices of the relevant trades and must be left free for all these numerous existing traders to continue using in this descriptive and bona fide manner, as is clearly customary in the trade.”

10) The second statement, dated 10 May 2002, is by Robert Froome the Senior Buyer for stationery for the applicant company, a position he has held for nine months having been with the company for three and one half years. He states that in October 2000 his company launched a new product under the trade mark AMAZING ADVENTURES which consisted of a range of forty-eight gift experiences and was sold in the form of a gift voucher which entitled the bearer to experience an activity such as rally driving, flying, gardening, a health farm etc. At exhibit RF1 he provides a copy of the brochure printed in October 2000. The brochure describes the activity and then states the duration and dates for the “experience”. Catalogues for February 2001 and October 2001 are provided at exhibits RF2 and RF3 respectively. They also show the same usage of the term “Experience”. Mr Froome states that the activities which form the gift activities are managed for the applicant by The Activity Superstore.

11) Mr Froome states that as a result of his work with the Amazing Adventure gift experience he has become familiar with a large number of other companies which either arrange or sell such experiences or vouchers for experiences. Amongst such companies are Virgin Vouchers Ltd, lastminute.com, SF Cody Ltd, Acorne Sports Ltd, Littlewoods, Boots Plc, Tesco Plc and Sainsbury Plc. At exhibit RF4 he provides extracts from websites and catalogues for some of these companies. These show that the term “experience” is widely used in the industry. The brochures refer to “The Helicopter Experience”, “The Flying Experience”, “Gift Experiences”, “experience Ticket”, “experience gift vouchers”, “Booking an Experience” etc. However, all the dates shown on these exhibits are after the relevant date.

12) Mr Froome states that from exhibit RF4 and his own knowledge “it is quite clear that the word ‘experience’ is commonly used in the leisure services and products trade and is used to describe an arranged event or activity, which can be experienced or partaken of in exchange for a certificate or voucher which has previously been purchased. The package offered can include not only gift certificates or vouchers, but also books, leaflets, stationery and the like associated with, or describing, the experience to be enjoyed.”

13) Mr Froome states that, in his experience the word “experience” would be seen by those in the trade as a description of what the public purchasing it would be entitled to. He claims that the public is used to purchasing record and book tokens and exchanging the same for books or records. He states that similarly they would exchange an experience voucher to undertake an activity, memorable event or experience. He states that therefore the mark in suit is descriptive of the certificates and related printed matter and cannot be used to distinguish one company’s certificates or vouchers from those of another.

14) The third statement, dated 28 May 2002, is by Angus Grahame, a director of The Activity Superstore Ltd, a position he has held since creating the company in 1997. He states that his company arranges a wide variety of activities, events and incentives which are offered directly to the general public and also arranged on behalf of other companies, such as W H Smith Retail Ltd.

15) Mr Grahame states that within his company’s brochure they mostly use the word “Activity”

in relation to the days out they arrange as this fits in with the company name. However, he states that they do use another descriptive word which “is commonly used in this business, which is the word ‘experience’”. He provides examples of brochures for 2000 and 2001 at exhibit AG1. He refers to two pages of the 2000 brochure which mention “Biggles experience” and also has the sentence “Experience the awesome power of the Sukhoi Su-27....”. The brochure contains 72 pages. Mr Grahame also draws attention to three pages out of the eighty page 2001 brochure. In this brochure the references are “Here is a range of top quality kit and clothing that will make anyone’s driving experience complete”, “A wonderfully original and entertaining experience” and “Rare breeds farm experience”.

16) Mr Grahame states that “Experience has been widely used in our industry and as a description of the industry”. He continues “The word ‘experience’ describes what these days out are i.e. the opportunity to try and experience something for a day. In my opinion it is just as descriptive as the word ‘activity’ which is what we mainly use in our brochure”.

17) At exhibit AG2 Mr Grahame provides copies from his company’s website, however these are dated May 2002. At exhibit AG3 he provides copies of press cuttings from the years 1997-2001 which describe the activities of the company. There are a number of uses of the word experience such as “it a real James Bond experience”, “Water: the next fix for experience junkies”, “no flying experience is necessary”, “give someone an experience rather than a gift”, “unforgettable experience”, “Employees favour experience rewards”, “a company that sells a range of experiences”. At exhibit AG4 are another collection of press cuttings which again show use of the word “experience” in relation to an activity such as “increasingly we are buying experiences rather than goods” and “range of gift experiences”.

#### REGISTERED PROPRIETOR’S EVIDENCE

18) The registered proprietor filed three declarations and six witness statements. The first, dated 10 July 2002, is by Alan Michael Fiddes, the proprietor’s Trade Mark Attorney. Much of Mr Fiddes evidence is taken up by a critique of the applicant’s evidence. I will only refer to those which I find to be of assistance. He states that the applicant’s evidence shows the word “experience” is being used in a descriptive sense and not in trade mark manner.

19) The second declaration, dated 9 July 2002, is by Rachel E Elnaugh the Chairman and founding director of Red Letter Days Plc. She states that her company first began to use the mark Experience in October 1998, prior to this they were called Spectrum vouchers. At exhibit RE1 she provides copies of her companies current brochure and also one for 2000/ 2001. The latter includes details of the multi choice voucher. At page eight it states:

“You’ve looked through all our experiences and you’re still not sure which one will make their heart beat faster. Here’s the perfect solution - an Experience voucher that lets them choose their own ideal Red Letter Day.”

20) The brochures use the word “experience” both as a normal word and as a trade mark throughout the brochure, for instance at page 19 “Your experience starts with a safety and technique briefing.....”.

21) Ms Elnaugh states that in June 2001 a Multi-choice Experience box retail product was

launched, which incorporated an Experience voucher. At exhibit RE5 are copies of a Debenhams website which shows the advertising being used for this product. Amongst the comments is the following: "Each box contains: Experience voucher. Entitling you to your choice of experience from a range of twenty." Examples of the Experience Gift Box are provided at exhibits RE7-9.

22) Ms Elnaugh states that her company provide their "experience" tickets/boxes/vouchers/gift through Boots, Debenhams, Tesco, Sainsbury Marks and Spencer and S F Cody. These are marketed as Experience vouchers although some also carry the name of the store ie Boots.

23) Ms Elnaugh provides turnover figures in Experience vouchers both through her companies catalogue and website and also through the retail products. These are as follows:

Period	Amount £
Oct 98 - Sept-99	715,000
Oct 99 - Sept 00	1,098,595
Oct 00 - Sept 01	1,844,739

24) Ms Elanaugh also states that her company has "been active in pursuing companies who are trying to trade off the reputation my company has established in the EXPERIENCE name in respect of gift vouchers". At exhibit RE19 she provides copies of correspondence sent to three companies including the applicant in this case.

25) The third declaration, dated 8 August 2002, is by Craig Ormiston the Business Development Director of the registered proprietor, a position he has held for eighteen months. Mr Ormiston states that his company deals with a number of retail partners, seven of which are listed at exhibit CO1, the names include M&S, Boots, Tesco & Sainsbury. A questionnaire was sent out, a copy is provided at exhibit CO2. The responses are shown at exhibit CO3. These show that the proprietor was, prior to the relevant date, supplying gift vouchers and services to the six respondents. The vouchers were sold via retail outlets, catalogues and websites.

26) The proprietor also filed six witness statements from the following:

- a) Paul Baldwin Head of Buying Menswear Division, Debenhams Retail Plc.
- b) Kate Walsh, E-Commerce Marketing Manager S G Cody's Archive of Originals Ltd.
- c)Kasia Balon Trading Manager Royal Mencap Society (did not use "experience" but "Mencap Adventures Vouchers".
- d)Caroline Fowler Marketing manager of the Beauty Business Unit of Marks and Spencer
- e)Deborah Burgin Product Manager of the Men's Seasonal Gift Experiences Division of Boots the Chemist.
- f)Janet Delena Mirabelle Bridal Trading Manager (Seasonal) of Sainsbury's Supermarkets Ltd.

27) In each case the witness confirmed that the proprietor supplied their company with vouchers which were sold through the retail outlets of the six companies. In each case (except Mencap) the

product sold carried the “Experience” mark.

#### APPLICANT’S EVIDENCE IN REPLY

28) The applicant filed a second statement, dated 28 October 2002, by its Trade Mark Attorney Ms Bucks. She provides a critique of the proprietor’s evidence and proffers her opinions which I do not find of assistance.

#### REGISTERED PROPRIETOR’S EVIDENCE IN REPLY

29) The proprietor provided a second statement, dated 28 November 2002, from Mr Fiddes its Trade Mark Attorney. He provides at AMF2 a copy of a decision by the Office for Harmonisation in the Internal Market (OHIM) accepting his client’s application to register the mark “EXPERIENCE” for goods and services in Classes 16 and 36. The request to register services in Class 41 was withdrawn following objections raised by OHIM. Mr Fiddes claims that the same type of observations as are being raised in this case were raised with OHIM but were not accepted in relation to the specifications for Classes 16 & 36.

30) That concludes my review of the evidence. I now turn to the decision.

#### DECISION

31) At the hearing Ms Bucks raised a preliminary point regarding the proprietor’s evidence in reply. The objection to the acceptance of this evidence was based on its lateness, whether it forms a precedent and whether the OHIM decision filed was based on similar evidence to the instant case. In my view the filing of this evidence could not in any way prejudice the applicant. The UK Registry is not bound by the decisions of OHIM although due regard will be paid, and any differences in evidence between the cases would lessen the weight given to the OHIM decision. The evidence in reply was therefore allowed to stand.

32) The applicant’s request for the declaration of invalidity is made under the provisions under Section 47(1) of the Act. This states:

“47.- (1) The registration of a trade mark may be declared invalid on the ground that the trade mark was registered in breach of section 3 or any of the provisions referred to in that section (absolute grounds for refusal of registration).

Where the trade mark was registered in breach of subsection (1)(b), (c) or (d) of that section, it shall not be declared invalid if, in consequence of the use which has been made of it, it has after registration acquired a distinctive character in relation to the goods or services for which it is registered.”

33) The applicant’s grounds are under Section 1(1) and 3(1)(a), (b), (c) & (d). These read as follows:

“1.-(1) In this Act a "trade mark" means any sign capable of being represented graphically

which is capable of distinguishing goods or services of one undertaking from those of other undertakings.

3.-(1) The following shall not be registered -

- (a) signs which do not satisfy the requirements of section 1(1),
- (b) trade marks which are devoid of any distinctive character,
- (c) trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of services, or other characteristics of goods or services,
- (d) trade marks which consist exclusively of signs or indications which have become customary in the current language or in the *bona fide* and established practices of the trade:

Provided that, a trade mark shall not be refused registration by virtue of paragraph (b), (c) or (d) above if, before the date of application for registration, it has in fact acquired a distinctive character as a result of the use made of it.”

34) At the hearing I was referred to the comments of Aldous L.J. in *Philips Electronics NV v. Remington Consumer Products Ltd* [1999 RPC 809 at 818]:

“The more the trade mark describes the goods, whether it consists of a word or shape, the less likely it will be capable of distinguishing those goods from similar goods of another trader. An example of a trade mark which is capable of distinguishing is WELDMESH, whereas WELDED MESH would not be. The former, despite its primary descriptive meaning, has sufficient capricious alteration to enable it to acquire a secondary meaning, thereby demonstrating that it is capable of distinguishing. The latter has no such alteration. Whatever the extent of use, whether or not it be monopoly use and whether or not there is evidence that the trade and public associate it with one person, it retains its primary meaning, namely mesh that is welded. It does not have any feature which renders it capable of distinguishing one trader’s mesh from another trader’s welded mesh.”

35) I also have regard to the comments of Morritt L.J. in the *Bach and Bach Flower Remedies Trade Marks* case [2000 RPC 513 at page 526 line 10]:

“The question is whether or not the word BACH had, by 1979, acquired such a meaning so as to be incapable, without more, of affording the requisite distinction. If it had then section 1(1) is not satisfied, the word BACH cannot be a capricious addition so that registration of the sign would be in breach of paragraph (a); if it had not then the word BACH is an addition to the words FLOWER REMEDIES which is ‘capricious’ because it is not purely descriptive, so that both the expression BACH FLOWER REMEDIES and the word BACH are capable of affording the necessary distinction. Accordingly I accept the submission that it is both permissible and necessary in considering the application of

paragraph (a) to determine the meaning of the word as used at the time of the application for registration. I do not understand Aldous L.J. in *Philips v. Remington* in the passage I have quoted, to have been considering the relevance of use to the meaning of the word.”

“The usage in question must be by those engaged in the relevant trade or activity. Normally that will be the usage of the average consumer of the goods in question as described in *Lloyd Schuhfabrik* [European Court of Justice, *Lloyd Schuhfabrik Meyer v. Klijsen Handel BV* 1999 ETMR 690]. Obviously the evidence on that question is not limited to those who are consumers or end-users but may extend to others concerned in the trade such as manufacturers, wholesalers and retailers.”

36) There is also the guidance from the European Court of Justice in relation to Article 7(1)(c) of Council Regulation 40/94 on the Community Trade Mark in *Baby-Dry* [2001] ETMR 75. Article 7(1)(c) is equivalent to Section 3(1)(c) of the Trade Marks Act 1994. The findings of the Court are set out in paragraph 35 et seq of the judgement. Paragraphs 39 and 40 serve to illustrate the approach adopted by the Court.

“39. The signs and indications referred to in Article 7(1)(c) of Regulation No 40/94 are thus only those which may serve in normal usage from a consumer’s point of view to designate, either directly or by reference to one of their essential characteristics, goods or services such as those in respect of which registration is sought. Furthermore, a mark composed of signs or indications satisfying that definition should not be refused registration unless it comprises no other signs or indications and, in addition, the purely descriptive signs or indications of which it is composed are not presented or configured in a manner that distinguishes the resultant whole from the usual way of designating the goods or services concerned or their essential characteristics.

40. As regards marks composed of words, such as the mark at issue here, descriptiveness must be determined not only in relation to each word taken separately but also in relation to the whole which they form. Any perceptible difference between the combination of words submitted for registration and the terms used in the common parlance of the relevant class of consumers is apt to confer distinctive character on the word combination enabling it to be registered as a trade mark.”

37) Ms Bucks contended that the word “experience” was a generic term used to describe a challenge or activity and that other traders cannot avoid using the word when describing their own, identical, goods. Essentially the word EXPERIENCE actually describes the goods being offered.

38) Mr Fiddes accepted that “the mark is unregistrable in respect of the activity itself”. However, he contended that in relation to a gift voucher or the issuing of same “I do not believe that anybody would consider that in normal parlance, the word ‘experience’ tells one anything about a gift voucher or about the issuing of a gift voucher. It may allude to something that a gift voucher may allow one to buy but it does not tell one anything about the gift voucher per se”. He drew particular attention to the *Baby-Dry* case and emphasised that the specification was related to gift

vouchers and the issuing of the same and not to the provision of any form of activity.

### **Section 3(1)(b)**

39) The contention that the word “experience” is not a normal means of designating the goods or their characteristics does not necessarily mean that the word has any inherent trade mark characteristic. It is entirely possible for a word not to describe the goods or their characteristics but still lack any distinctive character as a trade mark. In *Cycling IS* [2002] RPC 729 Mr G Hobbs QC acting as the Appointed Person said at paragraphs 43 and 44:

“43. In paragraph 39 of its judgement in *Baby-Dry* the ECJ states that a mark composed of signs or indication which may serve in normal usage from a consumer’s point of view to designate, either directly or by reference to one of their essential characteristics, goods or services as those in respect of which registration is sought:

“Should not be refused registration unless it comprises no other signs or indications and, in addition, the purely descriptive signs or indication of which it is composed are not presented or configured in a manner that distinguishes the resultant whole from the usual way of designating the goods or services concerned or their essential characteristics.”

The court went on to say in paragraph 40 of its Judgement that:

“Any perceptible difference between the combination of words submitted for registration and the terms used in the common parlance of the relevant class of consumers to designate the goods or services or their essential characteristics is apt to confer distinctive character on the word combination enabling it to be registrable as a trade mark”.

44. Taken out of context, these statements might be thought to indicate that signs which are wholly descriptive should, for that reason, be regarded as distinctive and therefore eligible for registration. However, I do not think that the Court can be taken to have adopted that position....”.

40) Later in the same decision at paragraphs 66-71 Mr Hobbs said:

“66. That brings me to the question of whether the signs possess a distinctive character enabling them to fulfil the essential function of a trade mark in relation to goods and services of the kind specified in the application for registration. (The goods and services comprise “clothing, footwear and headgear” in Class 25 and “advertising all relating to the cycling industry” in Class 35).

67. The case for allowing registration rests upon the proposition that the signs are cryptic to a degree which makes it more likely than not that they would carry connotations of trade origin (whatever other connotations they might also carry) in the minds of the relevant class of persons or at least a significant proportion thereof.

68. The case for refusing registration rests upon the proposition that the signs are visually and linguistically meaningful in a way which is more likely than not to relate the goods and services to the activity of cycling without also serving to identify trade origin in the minds of the relevant class of persons.

69. The difference between these two positions resides in the question whether the perceptions and recollections the signs would trigger in the mind of the average consumer of the specified goods and services would be origin specific or origin neutral.

70. The relevant perspective is that of the average consumer who does not know there is a question, but who is otherwise reasonably well-informed and reasonably observant and circumspect.

71. I do not suppose that such a person would pause to construe the signs when encountering them in any of the different settings (including advertising and promotional settings) in which they might be used. Even so, the degree of attention required to take note of the signs in the first place would be sufficient, in my view, to leave a well-informed and reasonably observant and circumspect person with the clear impression that the signs were being used with reference to goods and services related to cycling.”

41) It is clear from this that to hold that a sign must be regarded as distinctive if it is not wholly descriptive of the goods concerned, or their characteristics, would be contrary to everyday experience.

42) The mark in suit cannot be said to be a “lexical invention” or as exhibiting any “syntactically unusual juxtaposition” of words. It is a standard English word. “Experience” is a word which when used in relation to a gift voucher will be seen as offering the purchaser, or recipient, the opportunity to participate in an activity. The precise nature of the activity might differ, stimulating or relaxing, physical or cerebral, but the consumer will be aware that they are purchasing an opportunity to undertake an activity which is slightly unusual and which will be an adventure or experience. The evidence of the proprietor shows use of the word experience to describe the activities. Clearly they are intended to be an experience, something to look back on and remember, as participants usually receive something to remember the day, for example a certificate, photograph or photograph frame.

43) The proprietor attempted to distinguish between the activity itself and the gift voucher and its issuing. I do not accept this contention. When a consumer purchases an “experience” voucher they are either paying for a specific activity, or one within a certain price range. The fact that they are given a voucher which is redeemable at a later date is, to my mind, irrelevant. The voucher differs from a store voucher such as a Boots gift token as the proprietor’s token must be redeemed for an activity or experience whereas the store token can be redeemed for a vast array of goods or services. The term “experience” is used by the proprietor in its normal English meaning as it is the most apt word to describe the intended purpose of the goods and services in question.

44) Consequently I cannot see how the word experience can be distinctive of any particular trader. In my view the average consumer would see the word “experience” as being origin neutral.

I have no difficulty in finding that the word experience to be devoid of any distinctive character in relation to the goods and services for which it is registered. The application for invalidity under Section 3(1)(b) succeeds.

**Section 3(1)(c)**

45) My earlier findings in relation to the descriptive nature of the word EXPERIENCE (paragraphs 42- 44 of this decision) remain relevant to the assessment of the acceptability of the mark under Section 3(1)(c). Following these earlier findings it seems to me that the mark may serve in normal usage from a consumers' point of view to directly designate the essential characteristics, "kind" and "intended purpose", of the goods and services which are registered. The application for invalidity under Section 3(1)(c) also succeeds. I also note that Section 3(1)(c) excludes descriptions which are not in common usage at the date of registration but where it is reasonably foreseeable that they will come into descriptive use (*Cycling Is* and *Windsurfing Chiemsee*).

46) The request for invalidity having succeeded the applicant is entitled to a contribution towards costs. I order the proprietor to pay the applicant the sum of £2000. This sum to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 15<sup>th</sup> day of July 2003

George W Salthouse  
For the Registrar  
The Comptroller General