

IN THE MATTER OF A REQUEST BY DIE SCHWEIZERISCHE POST TO
PROTECT INTERNATIONAL REGISTRATION NO. 778636

AND IN THE MATTER OF OPPOSITION NO. 71025 THERETO BY ROYAL
MAIL GROUP PLC

DECISION

1. On 21 December 2001 Die Schweizerische Post applied to protect International Trade Mark No 778635 MAILSOURCE in respect of various goods and services in Classes 16, 20, 35, 36, 38, 39, 41 and 42 in the United Kingdom under the provisions of the Madrid Protocol.
2. The application was subsequently opposed by Royal Mail Group plc on grounds raised under sections 3(1)(b),(c) and 5(2)(b), (3), 4(a) of the Trade Marks Act 1994.
3. After evidence had been filed by the opponent and a hearing, George Salthouse acting for the Registrar upheld the opposition in part and dismissed it in part for reasons given in a written decision dated 2 November 2004 (O/330/04).
4. On 30 November 2004 the opponent filed a notice of appeal to the Appointed Person. Subsequently I was appointed to hear and determine the appeal. Shortly thereafter, I was advised that the parties were in negotiations about a possible compromise of their differences and asked to refrain from fixing a date for the hearing of appeal. The negotiations were protracted, but on 5 June 2006 the Treasury Solicitor was sent a copy of a settlement agreement which

the parties had executed that day together with certain explanatory and confirmatory letters. That settlement agreement and correspondence has been placed in front of me.

5. The settlement agreement provides, *inter alia*, that the proprietor will restrict the specification of goods and services of International Trade Mark No. 778635 insofar as it designates the United Kingdom in the manner set out in Schedule II to the agreement.
6. The Registrar has confirmed that he has no objection to the course of action contemplated by the settlement agreement.
7. Following the approach adopted in *OKO Trade Mark* (BL 0/195/03) and *QUORN HUNT Trade Mark* (O/127/05), and with the consent of the parties as envisaged by the settlement agreement, I determine and direct that:
 - (1) Mr Salthouse's decision dated 2 November 2004 be set aside;
 - (2) the opponent's appeal from that decision stands withdrawn with no order as to costs;
 - (3) Opposition No. 71025 stands withdrawn with no order as to costs;
 - (4) the request for protection of International Trade Mark No. 778635 stands remitted to the Registrar for further processing in accordance with the Madrid Protocol and the applicable provisions of the 1994 Act and the relevant Rules and in conformity with the terms of the settlement agreement that has been put before me.

20 July 2006

RICHARD ARNOLD QC