

O-247-08

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION No 2442458
BY UKHELP4U LIMITED TO REGISTER THE TRADE MARK
LONDONHELP4U IN CLASSES 35 AND 41**

**AND IN THE MATTER OF OPPOSITION
THERE TO UNDER NO 95310
BY FRANCINE MENDONCA DA SILVA**

TRADE MARKS ACT 1994

**IN THE MATTER OF Application No. 2442458
by UKhelp4u Limited to register the Trade Mark Londonhelp4u in Classes 35 and
41**

and

**IN THE MATTER OF Opposition thereto under No. 95310
by Francine Mendonca da Silva**

BACKGROUND

1) On 27 December 2006, UKhelp4u Limited, of Alexander House, 19 Fleming Way, Swindon, Wiltshire, SN1 2NG applied under the Trade Marks Act 1994 (“the Act”) for registration of the trade mark Londonhelp4u in respect of the following services:

Class 35: Immigration advice and services.

Class 41: Training and education provider.

2) The application was subsequently published in the Trade Marks Journal on 30 March 2007.

3) On 23 July 2007, Francine Mendonca da Silva of 72 Wells Street, London, W1T 3QF filed notice of opposition to the application. The opposition is based on the grounds that the applicant’s trade mark offends under Section 3(6) and Section 5(4)(a) of the Act. The ground under Section 3(6) is that the application was made in bad faith because the applicant had an opportunity to withdraw the application but failed to do so in the full knowledge that it would be opposed by the opponent.

4) The grounds under Section 5(4)(a) are by virtue of the law of passing off and are based upon the opponent’s earlier rights in the words LONDONHELP4U, Londonhelp4u and the following words and devices:



5) The opponent claims these earlier rights have been used in relation to providing assistance to immigrants to the UK and for all the services of the application since 2001. Acceptance of the applicant's trade mark would take unfair advantage of or be detrimental to the distinctive character or reputation of the opponent's earlier rights.

6) The applicant subsequently filed a counterstatement explaining the history behind its use of Londonhelp4u trade mark and considers that it has developed sufficient goodwill to justify its continued use. It explained that its core business activity is adult education and offered to amend the application by removing the Class 35 services.

7) The applicant also admits that he became aware of the opponent's sign after filing an earlier trade mark application which he later abandoned. The applicant then filed the contested application for Class 35 and 41 services.

8) Only the opponent filed evidence. Neither party requested to be heard or filed written submissions. The opponent seeks an award of costs over and above scale costs. After a careful study of all the papers, I give my decision.

Opponent's Evidence

9) This takes the form of a witness statement dated 24 January 2008 by Francine Mendonca da Silva, the founder of LONDONHELP4U together with accompanying exhibits. She explains that her company is IBJ International Limited ("IBJ") trading as LONDONHELP4U. The issues are summarised below.

10) IBJ was incorporated on 17 July 2002 and Exhibit 2 is a copy of the Certificate of Incorporation supporting this. Ms Madonca da Silva states that IBJ immediately began trading under the style LONDONHELP4U but the earliest use of the sign is 27 October 2003 as evidenced in Exhibit 5 where a handwritten letter on LONDONHELP4U headed paper is presented with this date. Other similar exhibits are also provided demonstrating activity under the LONDONHELP4U sign between 2003 – 2006 (before the date of application of the later trade mark). These activities include providing support for overseas students arriving in the UK such as liaising with the Home Office and the Inland Revenue concerning issues relating to individuals being assisted by LONDONHELP4U. I will discuss these exhibits in more detail later.

11) The applicant's admission that it was aware of the opponent's use of the sign before filing and made the application in the knowledge that this was in direct conflict with the opponent's use of LONDONHELP4U is cited by Ms Mendonca da Silva as evidence that the application was made in bad faith.

12) The Office of the Immigration Services Commissioner has registered IBJ as a provider of immigration advice and services and a copy of a certificate expiring on 31 March 2006 demonstrating this is at Exhibit 14. Ms Mendonca da Silva is recorded as the authorised advisor. Exhibit 14a is a copy of the same certificate for the following year (expiring on 31 March 2007). In this later certificate it is recorded that "IBJ International

Limited/London Help 4U” has been authorised to provide immigration advice and services.

13) Ms Mendonca da Silva claims that LONDONHELP4U is registered and approved by the Immigration Law Practitioners’ Association (ILPA), Association of Regulated Immigration Advisers (ARIA) and the Joint Council for the Welfare of Immigrants (JCWI). A number of exhibits are produced in support of this claim. Exhibits 14c and 14d are copies of letters from ILPA, the first confirming that she attended a training session with them, the second confirming a booking to attend a further training session. Both letters include the name “London Help 4 U” in the applicant’s address. Exhibit 14e is a copy of a certificate confirming Ms Mendonca da Silva attended a course entitled “Professional Conduct in Immigration Casework” run by the ARIA. Exhibit 14g is a letter dated 11 January 2006 from the JCWI acknowledging payment of IBJ’s membership fees.

14) Ms Menonca da Silva discloses the following turnover and advertising expenditure for the period of August 2006 to July 2007:

	Amount
Turnover	£249,460
Publishing expenditure	£3,410
Advertising expenditure	£18,476

15) It is not clear what proportion, if any, of the turnover figures relate to services provided under the LONDONHELP4U sign. At Exhibit 3, turnover figures for IBJ are provided for the years 2006/7. For the five months prior to the applicant’s date of filing (27 December 2006) these figures are in the region of £12000-22,000 a month. Again, it is not clear if all or only some of this turnover relates to activities under the sign LONDONHELP4U. Exhibit 4 includes a page detailing “nominal activity” relating to LONDONHELP4U and includes thirty four transactions prior to the application filing date. Many of these appear to relate to payments for advertisements placed in publications such as Leros magazine, “Jungle Drums” (Later identified in Exhibit 11d as JungleDrums Magazine) and Yell and some to the payments for “flyers”. The precise nature of other entries is less obvious. These “nominal activities” suggest that at least some of the publishing and advertising expenditure detailed above will relate to services provided under the LONDONHELP4U sign.

16) The figures are supported by copies of invoices received by LONDONHELP4U. A number of these clearly relate to promotional activities such as the production of ad flyers (Exhibit 11, dated 18 October 2004) and advertising in Leros magazine (Exhibit 11c dated 5 November 2004, Exhibit 11f dated 7 December 2004 and Exhibit 11h dated 6 June 2006) which Ms Mendonca da Silva later explains is a Brazilian magazine published in London.

17) There are numerous exhibits, referred to in more detail later, consisting of copies of letters to and from LONDONHELP4U regarding immigration, tax, accommodation and education issues in respect of various clients of the opponent.

18) Exhibits 10 – 10g are copies of eight invoices issued by LONDONHELP4U, two of which are dated prior to the filing date of the application. These two are dated 25 November and 6 December 2004 respectively, billed to “Malvern House” (later revealed as an educational establishment) and relate to commission owed for the amounts of £113 and £89 respectively. These amounts appear to be commission payments for placing students.

19) Extracts from the Internet archive “Wayback Machine” are provided at Exhibit 2c illustrating that the website londonhelp4u.co.uk has been in existence since 2001. Ms Mendonca da Silva states that this was and is still used to promote her services and Exhibit 2d contains extracts as of 7 November 2007 from the current website. Although never stated by Ms Mendonca da Silva, it is apparent from the exhibits that the main clientele of LONDONHELP4U are Brazilian. This would explain why many of the copies of extracts from various publications at Exhibits 13 – 13p are often in Portuguese. Others are in English such as copies of adverts for LONDONHELP4U as “specialists in all kinds of immigration issues” shown in the Camden New Journal in 2006, and in the Yellow Pages (July 2006/2007). Those exhibits in Portuguese are of little assistance as no translations are provided and I will not refer to them further.

20) LONDONHELP4U has attended exhibitions and conferences, but the evidence of this post dates the filing date of the application.

DECISION

Section 5(4) (a)

21) I will consider the ground under Section 5(4)(a) first. That section reads as follows:

“5.-(4) A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented –

(a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, or

(b)

A person thus entitled to prevent the use of a trade mark is referred to in this Act as the proprietor of an “earlier right” in relation to the trade mark”.

22) The requirements for this ground of opposition have been restated many times and can be found in the decision of Mr Geoffrey Hobbs QC, sitting as the Appointed Person,

in *WILD CHILD Trade Mark* [1998] R.P.C. 455. Adapted to opposition proceedings, the three elements that must be present can be summarised as follows:

- (1) that the opponents' goods or services have acquired a goodwill or reputation in the market and are known by some distinguishing feature;
- (2) that there is a misrepresentation by the applicant (whether or not intentional) leading or likely to lead the public to believe that goods or services offered by the applicant are goods or services of the opponents; and
- (3) that the opponents have suffered or are likely to suffer damage as a result of the erroneous belief engendered by the applicant's misrepresentation.

23) To the above I add the comments of Pumfrey J (as he then was) in the *South Cone Incorporated v Jack Bessant, Dominic Greensmith, Kenwyn House and Gary Stringer (a partnership)* case [2002] RPC 19, in which he said:

"27. There is one major problem in assessing a passing off claim on paper, as will normally happen in the Registry. This is the cogency of the evidence of reputation and its extent. It seems to me that in any case in which this ground of opposition is raised the Registrar is entitled to be presented with evidence which at least raises a prima facie case that the opponent's reputation extends to the goods comprised in the applicant's specification of goods. The requirements of the objection itself are considerably more stringent than the enquiry under Section 11 of the 1938 Act (See *Smith Hayden (OVAX)* (1946) 63 RPC 97 as qualified by *BALI* [1969] RPC 472). Thus the evidence will include evidence from the trade as to reputation; evidence as to the manner in which the goods are traded or the services supplied; and so on.

28. Evidence of reputation comes primarily from the trade and the public, and will be supported by evidence of the extent of use. To be useful, the evidence must be directed at the relevant date. Once raised the applicant must rebut the prima facie case. Obviously he does not need to show that passing off will not occur, but he must produce sufficient cogent evidence to satisfy the hearing officer that it is not shown on the balance of possibilities that passing off will occur."

24) The relevant date for determining the opponent's claim, in the absence of any competing earlier claim on the part of the applicant, will be the filing date of the application in suit, that is to say 27 December 2006. The earlier right must have been acquired prior to that date (Article 4.4(b) of First Council Directive 89/104 on which the UK Act is based).

25) I must first assess if the opponent has acquired any goodwill and if so, what is the extent of this goodwill at the relevant date. The evidence demonstrates use of the sign LONDONHELP4U is claimed from 2001, but the exhibits fail to give precise

information as to the scale of this use. The scope of use can be categorised into distinct areas as detailed below:

Service	Examples of Relevant Exhibits
Advice and administrative arrangements relating to immigration matters	<p>Exhibits 7d, 7j, 8b, 8c, all dated between 12 July 2005 and the filing date of the application: Letters from the Home Office to LONDONHELP4U regarding visa and passport requirements for immigrant students.</p> <p>Other letters from the Home Office covering similar issues are also provided.</p> <p>Exhibit 7a: An undated letter (but with the year 2005 in the reference) from LONDONHELP4U to an individual at a London address concerning the Home Office's decision to grant leave to remain in the UK.</p> <p>Exhibits 7e, 7k and 8a: Letters dated 18 August, 12 December 2005 and 27 February 2006 respectively to the Home Office notifying them that LONDONHELP4U were representing individuals regarding their immigration matters.</p>
Advice relating to income tax matters	<p>Exhibits 7g, 7h and 7i: Letters from the Inland Revenue to LONDONHELP4U dated 5 October, 21 October and 7 November 2005 respectively regarding tax matters of LONDONHELP4U clients.</p> <p>Other letters from HM Revenue & Customs are also provided.</p> <p>Exhibits 8: A letter dated 20 February 2006 from LONDONHELP4U to the Inland Revenue on behalf of a client regarding a payment claim.</p>
Organising attendance at educational courses	Exhibit 5 dated 27 October 2003, Exhibit 5b (21 November 2003), Exhibit 5c (24 November 2003): Handwritten letters on LONDONHELP4U headed paper relating

	<p>to payment of student enrolment fees, course certificates and/or “holiday letters”.</p> <p>Exhibit 5a dated 29 October 2003: Letter from Katherine & King’s College of London confirming agreement with LONDONHELP4U regarding registration fees for students.</p> <p>Exhibit 6a: undated letter from LONDONHELP4U relating to enrolment of a student on a three month English language course beginning 8 March 2004.</p> <p>Exhibit 6e (22 December 2004): Letter from LONDONHELP4U to Katherine & King’s College of London requesting a refund for a student.</p> <p>Exhibit 10 and 10a: Two invoices dated 25 November and 6 December 2004 respectively. LONDONHELP4U invoicing Malvern House for commission relating to students.</p> <p>Exhibits 11b and 11g: Invoices from The English Studio language school dated 4 November 2004 and 12 January 2005 respectively to LONDONHELP4U in relation to a service described as “Budget General English”.</p>
Arranging of accommodation	<p>Exhibit 6c is a copy of a confirmation of a reservation from 22 July to 22 September 2004 at the International Home for Students and Tourists from LONDONHELP4U</p> <p>Exhibit 11a: Invoice dated 25 October 2004 from the London School of English & Computing to LONDONHELP4U for “accommodation” during the month of November 2004 and amounting to £1100.</p>

26) Exhibits 12e and 13a consist of extracts from the advertising flyers for LONDONHELP4U that list other services in addition to those listed above, namely same

sex marriages, advice in imports and exports, opening of companies, translations, jobs, airport transfers and tours to Europe and UK. However, in the absence of further supporting evidence I am unable to conclude that any activity has been undertaken by the applicant in these areas before the relevant date.

27) Of significance is the evidence that the opponent's services, as supplied under the sign LONDONHELP4U, are officially recognised by the authorities, namely the Office of the Immigration Services Commissioner who has authorised "IBJ International Limited/London Help 4U". Ms Mendonca da Silva's also claims that LONDONHELP4U is registered and approved by the ILPA and ARIA but this is not categorically confirmed in the evidence. Exhibits 14c and 14d are presented in support of this statement. The former records that Ms Mendonca da Silva attended an ILPA training session and the latter is a booking confirmation for a further training session, neither of which are evidence of membership. Similarly, Exhibit 14e is an ARIA "Certificate of Attendance" relating to Ms Mendonca da Silva's attendance at one of its training courses. However, I do note that many of the letters presented in the evidence that originate from the opponent include a footer where the signs of all the above organisations except ILPA are presented. In the case of the JCWI the words "Member No 2021" also appear. JCWI membership is also supported by a letter, at Exhibit 14g, addressed to IBJ International (but makes no mention of LONDONHELP4U) acknowledging receipt of its membership fee. Taken in combination with the opponent's statements and all the other exhibits I am prepared to accept that it is likely that approval from all these organisations has been obtained.

28) The evidence listed in paragraph 25 combined with the evidence of working relationships with a number of trade organisations and government bodies leads me to conclude that, by the relevant date, the opponent had acquired the necessary goodwill in respect to *advice and administrative arrangements relating to immigration matters, advice relating to income tax matters, organising attendance at educational courses and arranging of accommodation.*

29) I must then go on to examine if there is a misrepresentation by the applicant such that it leads or is likely to lead the public to believe the services offered by the applicant are services of the opponent. It is clear that the opponent's services I have described as *advice and administrative arrangements relating to immigration matters* are identical to the applicant's *immigration advice and services* listed in its Class 35 specification. Similarly, *organising attendance at educational courses* is identical or if not, at least at the top end of similarity with the services described in the applicant's Class 41 specification, namely *training and education provider*. The respective signs both share the identical word and numeral elements, namely LONDONHELP4U. Taking account of the very close similarity between the signs, the identity or very close similarity of the respective services, and a shared relevant consumer (immigrants to the UK), I conclude that there is misrepresentation that is likely to lead the public to believe that services offered by the applicant are services of the opponent. This is likely to result in the opponent suffering damage as a result of the erroneous belief engendered by the applicant's misrepresentation.

30) In conclusion, I find that at the date of application the opponent has successfully demonstrated that it had acquired a goodwill associated with the sign and that the necessary misrepresentation required by the tort of passing off would occur. The opposition under Section 5(4) (a) is therefore successful with respect to all the services claimed in the application.

Section 3(6) – Bad Faith

31) Section 3(6) of the Act reads as follows:

“3(6) A trade mark shall not be registered if or to the extent that the application is made in bad faith.”

32) In terms of the date at which the matter falls to be considered, it is well established that the relevant date for consideration of a bad faith claim is the application filing date or at least a date no later than that (*Hotpicks Trade Mark*, [2004] RPC 42 and *Nonogram Trade Mark*, [2001] RPC 21).

33) In *Gromax Plasticulture Ltd v. Don & Low Nonwovens Ltd* [1999] RPC 367, Lindsay J. considered the meaning of “bad faith” in Section 3(6) of the Act and stated (at page 379):

“I shall not attempt to define bad faith in this context. Plainly it includes dishonesty and, as I would hold, includes 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. Parliament has wisely not attempted to explain in detail what is or is not bad faith in this context; how far a dealing must so fall-short in order to amount to bad faith is a matter best left to be adjudged not by some paraphrase by the courts (which leads to the danger of the courts then construing not the Act but the paraphrase) but by reference to the words of the Act and upon a regard to all material surrounding circumstances.”

34) In *Harrison v. Teton Valley Trading Co* [2005] FSR 10, the Court of Appeal confirmed that bad faith is to be judged according to the combined test set out by the House of Lords in *Twinsectra v Yardley* [2002] 2 AC 164. Paragraphs 25 and 26 of the Court of Appeal decision are of particular assistance and read as follows:

“25. Lord Hutton went on to conclude that the true test for dishonesty was the combined test. He said:

“36. Therefore I consider that your Lordships should state that dishonesty requires knowledge by the defendant that what he was doing would be regarded as dishonest by honest people, although he should not escape a finding of dishonesty because he sets his own standards of honesty and does not regard as dishonest what he knows would offend the normally accepted standards of honest conduct.”

26. For my part, I would accept the reasoning of Lord Hutton as applying to considerations of bad faith. The words “bad faith” suggest a mental state. Clearly when considering the question of whether an application to register is made in bad faith all the circumstances will be relevant. However the court must decide whether the knowledge of the applicant was such that his decision to apply for registration would be regarded as in bad faith by persons adopting proper standards.”

35) The Privy Council considered earlier authorities in *Barlow Clowes International Ltd (in liquidation) & Others v Eurotrust International Limited & Others*, [2005] UKPC 37. In particular, their Lordships considered a submission from Counsel that an inquiry into the defendant’s views about standards of honesty is required. The following passage from Lord Hoffman’s judgment sets out the position as follows:-

“14...[Counsel for the defendant] relied upon a statement by Lord Hutton in *Twinsectra Ltd v Yardley* [2002] 2 AC 164, 174, with which the majority of their Lordships agreed:

“35. There is, in my opinion, a further consideration which supports the view that for liability as an accessory to arise the defendant must himself appreciate that what he was doing was dishonest by the standards of honest and reasonable men. A finding by a judge that a defendant has been dishonest is a grave finding, and it is particularly grave against a professional man, such as a solicitor. Notwithstanding that the issue arises in equity law and not in a criminal context, I think that it would be less than just for the law to permit a finding that a defendant had been ‘dishonest’ in assisting in a breach of trust where he knew of the facts which created the trust and its breach but had not been aware that what he was doing would be regarded by honest men as being dishonest.

“36. I consider that the courts should continue to apply that test and that your Lordships should state that dishonesty requires knowledge by the defendant that what he was doing would be regarded as dishonest by honest people, although he should not escape a finding of dishonesty because he set his own standards of honesty and does not regard as dishonest what he knows would offend the normally accepted standards of honest conduct.”

15. Their Lordships accept that there is an element of ambiguity in these remarks which may have encouraged a belief, expressed in some academic writing, that *Twinsectra* had departed from the law as previously understood and invited inquiry not merely into the defendant’s mental state about the nature of the transaction in which he was participating but also into his views about generally acceptable standards of honesty. But they do not consider that this is what Lord Hutton meant. The reference to “what he knows would offend normally accepted

standards of honest conduct” meant only that his knowledge of the transaction had to be such as to render his participation contrary to normally acceptable standards of honest conduct. It did not require that he should have had reflections about what those normally acceptable standards were.

16. Similarly in the speech of Lord Hoffmann, the statement (in paragraph 20) that a dishonest state of mind meant “consciousness that one is transgressing ordinary standards of honest behaviour” was in their Lordships’ view, intended to require consciousness of those elements of the transaction which make participation transgress ordinary standards of honest behaviour. It did not also require him to have thought about what those standards were.”

36) On the basis of these authorities it is clear that a finding of bad faith may be made in circumstances which do not involve actual dishonesty. Furthermore, it is not necessary for me to reach a view on the applicant’s state of mind regarding the transaction if I am satisfied that their action in applying for the mark in the light of all the surrounding circumstances would have been considered contrary to normally accepted standards of honest conduct.

37) Thus, in considering the actions of the applicants, the test is a combination of the subjective and objective. Furthermore, it is clear that bad faith in addition to dishonesty, may include business dealings which fall short of the standards of acceptable commercial behaviour i.e. unacceptable or reckless behaviour in a particular business context and on a particular set of facts.

38) In their counterstatement, the applicants acknowledge that they were aware of the use of LONDONHELP4U by the opponent. Does that make the act of applying to register it as a trade mark an act of bad faith? In the *Daawat* trade mark case [2003] RPC 11, the appointed person held as follows:

“93 As noted in para.14 of the principal hearing officer's decision in the present case, the First Cancellation Division in its Decision in the BE NATURAL case (October 25, 2000) adopted the view of UK Trade Marks Registry that a finding of bad faith could properly be made:

"Where the applicant was aware that someone else intends to use and/or register the mark, particularly where the applicant has a relationship, for example as employee or agent, with that other person, or where the applicant has copied a mark being used abroad with the intention of pre-empting the proprietor who intends to trade in the United Kingdom."

39) In this case the applicants were aware that “someone else” was using the sign LONDONHELP4U. Along with the act of making applications comes the intent to use them in connection with the services specified. The applicant has subsequently offered to delete Class 35 from his application in an attempt to distance the scope of its application from the scope of services of interest to the opponent, however this does not alter his

intent at the time of filing the application. All the services, the subject of the application, are the same services as those for which the opponent uses the sign, so registration would deprive the opponent of their name, or the right to use it in the furtherance of their commercial activities. I therefore find that making the application is an act of bad faith and this ground under Section 3(6) also succeeds.

Costs

40) The opponent seeks an award of costs over and above scale costs. It is the long-established practice that costs in proceedings before the Comptroller are awarded by a standard published scale and are not intended to compensate parties for the expense to which they may have been put. Rather, an award of costs is only intended to represent only a contribution to that expense. It is not possible to indicate all of the circumstances in which an award may justify a departure from the scale of costs. Such exceptional circumstances have not been defined by the courts and the overriding factor is to act judicially in all the facts of a case. Mr Anthony Watson QC sitting as a Deputy Judge of the High Court in *Rizla Ltd's Application* [1993] RPC 365 (a patents case) held at paragraph 377, that:

“...there is no established yardstick to measure what might be regarded as exceptional. I believe a case such as the present can only be regarded as exceptional if it can be shown that the losing party has abused the process of the Comptroller by commencing or maintaining a case without a genuine belief that there is an issue to be tried.”

Significantly, the Deputy Judge added:

"There are of course a large number of other circumstances such as deliberate delay, unnecessary adjournments *etc.* where the Comptroller will be entitled to award compensatory costs, but it is unnecessary to attempt to define what is clearly a wide discretion."

41) I am satisfied that in these proceedings, the applicant has not abused the process and despite losing, he was entitled to maintain the case. There is no evidence that the applicant did not have a genuine belief that there was an issue to be heard. In fact, the applicant's attempt to resolve the issue by offering to delete the Class 35 specification of services from its application demonstrates a belief, albeit erroneous, that there was an issue that could possibly be resolved during the process. These actions illustrate a reckless disregard rather than a deliberate attempt to assert ownership to rights already residing with the opponent.

42) As such, I reject the notion that an award over and above scale costs is appropriate. Therefore, the opposition having been successful, the opponent is entitled to a contribution towards its costs. I take account of the fact that the decision has been reached without a hearing taking place and with neither party filing written submissions. I award costs on the following basis:

Opposition fee	£200
Statement of case in reply	£300
Considering the counterstatement	£200
Preparing and filing evidence	£500
TOTAL	£1200

43) I order UKhelp4u Limited to pay Francine Mendonca da Silva the sum of £1200. This sum is 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 27th day of August 2008

**Mark Bryant
For the Registrar,
the Comptroller-General**