

O-334-05

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION No. 2307530
BY VOV COSMETICS CO. LTD TO REGISTER
A TRADE MARK IN CLASS 3**

AND

**IN THE MATTER OF OPPOSITION No. 91986
BY ALBERTO-CULVER COMPANY**

TRADE MARKS ACT 1994

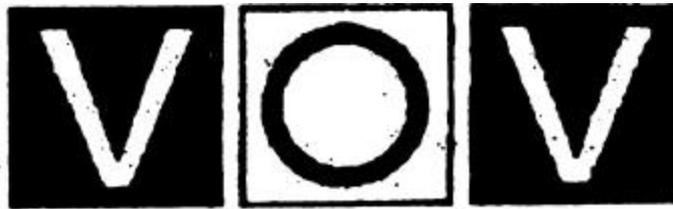
**IN THE MATTER OF Application No. 2307530
by VOV Cosmetics Co. Ltd to register a Trade Mark
in Class 3**

and

**IN THE MATTER OF Opposition No. 91986
by Alberto-Culver Company**

BACKGROUND

1. On 8 August 2002 VOV Cosmetics Co. Ltd applied to register the following mark:



in respect of:

Perfume; lipsticks; manicure kits; skin creams and lotions; manicure preparations; nail varnishes and nail polishes; nail varnish and nail polish removers; toilet water; hair colourants; pressed powders for compacts; cosmetic pencils; eye shadow; nutrition cream; moisture lotion; lip gloss; eyeliner; aftershave lotion; milk lotion; false eyelashes; cosmetic soap; shampoo; hair rinse.

The application is numbered 2307530.

2. On 15 September 2003 Alberto-Culver Company filed notice of opposition to this application. It is the proprietor of the UK and Community Trade Mark registrations details of which are set out in the Annex to this decision.

3. The opponent bases its opposition on the mark or element VO5. The VO5 mark is said to have been used around the world including the UK for over 40 years and has generated substantial sales. On the basis of these circumstances objections are raised as follows:

- (i) under Section 5(2)(b) in that use or registration of the mark applied for would lead to a likelihood of confusion;
- (ii) under Section 5(3), having regard to the opponent's marks' reputation, it is said that use or registration would take unfair advantage of or be detrimental to the distinctive character or repute of the VO5 mark;

(iii) under Section 5(4)(a), and in particular the law of passing off, having regard to the use of the opponent's mark.

4. The statement of grounds contains a number of submissions in relation to the issues of comparison of goods, similarity of marks and reputation. I bear these submissions in mind.

5. The applicant filed a counterstatement denying the above grounds and offering a number of submissions of its own.

6. Both sides ask for an award of costs in their favour.

7. Both sides filed evidence. The matter came to be heard on 13 December 2005 when the applicant was represented by Ms F Clark of Counsel instructed by Frank B Dehn & Co and the opponent by Ms D McFarland of Counsel instructed by Baker & McKenzie.

EVIDENCE

Opponent's evidence

8. The opponent filed a witness statement by Patricia M Desimone, Intellectual Property Counsel for Alberto-Culver Company.

9. She says the company is a global manufacturer of personal care products including hair care and styling products. The VO5 brand is one of the most important and well known brands of the company. A list of particular products sold under the mark includes shampoos, conditioners, styling creams, styling wax, hairsprays, mousses etc.

10. Ms Desimone says that the opponent has been active in Europe for many years and has sold goods under the VO5 brand from at least as early as 1987. The distributors in the UK include well known chains such as Sainsbury's, Boots, Tesco, Superdrug etc.

11. Ms Desimone exhibits, PD-1, a table showing recent sales figures for and promotional expenditure on the VO5 range in the UK. Taking the years up to and spanning the material date the figures are as follows:

	UK Retail	
	Shipments	TV & Print
Fiscal	£'000s	£'000s
1999	29,301	2,954
2000	32,334	2,922
2001	31,636	2,685
2002	32,677	1,127

12. Exhibit PD-2 contains further information on the nature of the company's advertising. Unfortunately, all the information supplied is for the year 2003 with one exception that relates to print advertising in September 2002. That too is slightly after the filing date of the application in suit.

13. There are further supporting exhibits as follows:

PD-3 - a sample invoice (dated November 1987);

PD-4 - a list of products shipped to the EU by the opponent over the last year (as this is 2004 the list is of limited value);

PD-5 - the results of a Google internet search of the term VO5. Ms Desimone says this shows that VO5 is used alone. In fact the listings show a mixture of uses, some being VO5, others Alberto VO5. The print-outs are dated 5 January 2005;

PD-6 - a print-out from the online store Boots.com. A range of VO5 branded products are shown but again the search was conducted on 5 January 2005.

14. The remainder of Ms Desimone's statement consists largely of submissions.

Applicant's evidence

15. The applicant has filed a witness statement by Kyu-Woo Nam, a Representative Director of VOV Cosmetics Co. Ltd. I do not find it necessary to offer a full summary of his evidence as much of it is of tangential relevance to the issues before me. Briefly his evidence covers the background to the company's activities, its overseas trading, its overseas trade mark portfolio and decisions of three jurisdictions (Japan, Iran and Russia) where favourable outcomes were achieved in the face of VO5 as a cited mark. Finally, he offers what amount to submissions in relation to Ms Desimone's evidence.

Opponent's evidence in reply

16. Ms Desimone has filed a further witness statement. Much of the first part of her reply evidence repeats her evidence in chief and the submissions contained therein.

17. The following additional items of documentary evidence have been supplied:

- PD-1A) Examples of products whose brand names incorporate Roman
- PD-2A) numerals. This evidence is intended to support Ms Desimone's view
- PD-3A) that consumers may see the final V of the applied for mark as a Roman numeral and hence equate it to 5 thus leading, in her view, to a likelihood of confusion;
- PD-4A - material from the opponent's website intended to show that VO5 is used on its own as well as in conjunction with the word Alberto.

18. The remainder of her witness statement consists of submissions in relation to Mr Nam's evidence.

19. That completes my review of the evidence.

DECISION

Section 5(2)(b)

20. This reads:

“5.-(2) A trade mark shall not be registered if because -

- (a)
- (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. I take into account the guidance provided by the European Court of Justice (ECJ) in *Sabel BV v Puma AG* [1998] E.T.M.R. 1, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc* [1999] R.P.C. 117, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* [2000] F.S.R. 77 and *Marca Mode CV v Adidas AG* [2000] E.T.M.R. 723.

22. In essence, the test is whether there are similarities in marks and goods which would combine to create a likelihood of confusion. The likelihood of confusion must be appreciated globally and I need to address the degree of visual, aural and conceptual similarity between the marks, evaluating the importance to be attached to those differing elements, taking into account the degree of identity/similarity of the goods and how they are marketed. In comparing the marks I must have regard to the distinctive character of each and assume normal and fair use of the marks across the full range of the goods within their respective specifications. The matter must be considered from the perspective of the average consumer who is deemed to be reasonably well informed and reasonably circumspect and observant.

23. In approaching the comparison of goods I was reminded by Ms Clark that, unless there is similarity then that is an end to the matter. She referred to two cases, *Harding v Smilecare Limited* [2002] FSR 37 and *Sihra's Trade Mark Application* [2003] RPC 44 where it has been held that there is a threshold requirement that must be crossed for similarity to be found to exist. I accept that that is the case but also take account of the Appointed Person's decision in *Merlin Trade Mark*, O-043-05.

“43. I consider that the case-law of the ECJ, and in particular *Canon*, establishes that the test under section 5(2) is a single composite question. Answering this single composite question involves (*inter alia*) making an assessment of the degree of distinctiveness of the earlier mark and an assessment of the degree of similarity of the respective goods or services in order to arrive at an overall assessment of the likelihood of confusion.

44. In the present case, however, the hearing officer first considered whether the respective services were similar and made a decision yes or no in respect of the various services. He did not consider this aspect of the matter in terms of degrees of similarity. Furthermore, in respect of those services which he

found were similar, he then considered as a separate matter whether or not there was a likelihood of confusion taking into account the distinctiveness of the mark. This approach did not admit of the possibility that the distinctiveness of the mark could mean that there was a likelihood of confusion for less similar services than if the mark had not been distinctive. Indeed, the hearing officer said at [65]:

The identity of the signs and the distinctiveness of the earlier trade mark cannot change the dissimilar into the similar, neither can reputation (see *Marca Mode CV v Adidas AG* ... re the limits of the effects of reputation).

In my judgment this is not a correct statement of the law since the question is not whether dissimilar goods or services can be changed into similar ones, but of the impact on likelihood of confusion of a greater degree of distinctiveness on the part of the mark despite there being a lesser degree of similarity between the goods or services. Case C-425/98 *Marca Moda CV v Adidas AG* [2000] ECR I-4881 does not establish anything different. On the contrary, in *Marca Moda* the ECJ reiterated the interdependency principle at paragraph 40.”

24. The same point arose in *The Penguin Trade Mark*, O-144-05 with the Appointed Person holding that:

“24. However, pre-emptive findings to that effect [no similarity] should only be made when the degree of dissimilarity between the marks in issue or the degree of dissimilarity between the goods or services in issue is clearly sufficient, in and of itself, to preclude the existence of a likelihood of confusion.”

25. The *Canon* case referred to above provides relevant guidance in determining similarity:

“23. In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, *inter alia*, their nature, intended purpose and their method of use and whether they are in competition with each other or are complementary.”

26. The applicant’s goods are set out at the start of this decision. At the hearing Ms McFarland based her case principally on Nos. 1027964, 2106863 and CTM 76950, each of which is for the letter and numeral combination V05 alone. The other registration that needs to be mentioned is CTM No. 77057 for the mark ALBERTO V05. Nos. 1027964 and 2106863 cover a range of hair preparations. No. 76950 covers hair care products and certain Class 5 goods. No. 77057 covers all the above and, additionally, cosmetic and toiletry products.

27. I have little hesitation in saying that No. 77057 covers identical and/or closely similar goods. The applicant’s itemised goods are simply examples of products that would come within the broad terms cosmetics and toiletry products and hair care products.

28. An issue arises as to whether the opponent's preparations for the hair (as covered by the specifications of Nos. 1027964 and 2106863) are identical or similar to the goods of the applicant's specification. In so far as the latter covers hair colourants, shampoos and hair rinse identical goods must be involved. It is less easy to determine whether the remaining goods are similar and, more particularly, the degree of any similarity.

29. The opponent in its statement of grounds, and Ms McFarland in her submissions, referred me to Council Directive 76/768/EEC on the approximation of laws of European Member States relating to cosmetic products and the UK Cosmetics Products (Safety) Regulations SI 2004/2152. Article 1(1) of the Directive defines a cosmetic product as:

“any substance or preparation intended for placing in contact with the various external parts of the human body (epidermis, hair system, nails, lips and external genital organs) or with the teeth and the mucous membranes of the oral cavity with a view exclusively or principally to cleaning them, perfuming them or protecting them in order to keep them in good condition, change their appearance or correct body odours”.

30. The above definition includes products “for placing in contact with hair system” within the term cosmetics. It is suggested by the opponent that this definition provides a framework within which to consider the scope of the term cosmetics.

31. It is well established that consideration of marks and goods must be undertaken by reference to the understanding and perception of the average consumer. Such a person will not, of course, approach the matter from the perspective of legal definitions which may be cast in deliberately broad terms (understandably so where issues to do with safety are concerned). I note that Collins English Dictionary defines cosmetic in rather narrow terms as “any preparation applied to the body, especially the face, with the intention of beautifying it”. But that definition is not without ambiguity and leaves room for doubt as to whether it covers hair care preparations.

32. In the absence of evidence from consumers themselves, I am inclined to think that hair care preparations at the least constitute a discrete segment of the beauty products market. I doubt, for instance, whether the average consumer would ask for the cosmetics counter in a store if he or she really required hair care preparations. But that is not to say that the two sets of goods do not share similarities. Application of the Canon criteria suggests that the nature of the goods may in some cases be the same (e.g. lotions can be for the hair or skin) but in others somewhat different (lipsticks say compared to hair care preparations). Their intended purpose is largely different save that cosmetics and hair care preparations are for general beautification. The method of use probably differs in that hair care preparations involve different methods of application/use to cosmetics. The respective products are not in competition with each other but may be said to be complementary. From a trading perspective chemists, stores and other retail premises are likely to supply both sets of goods but hair care products tend to be concentrated in particular areas. Ms McFarland's skeleton argument edged towards the suggestion that manufacturers operating within the general field would offer a range of goods from fragrances to hair care preparations, skin care products and make up. Doubtless a few larger traders may span the full range. I am far from being convinced that it is a widespread practice. The opponent's own position is that, despite a claimed lengthy trading history it is, to date at least, a hair care preparations company and has

not expanded into the wider beauty products/cosmetics field (at least not under the mark VO5).

33. Where does this leave the issue of similarity so far as the non-identical goods in the applicant's specification are concerned? There can be, and in this case are in my view, gradations of similarity. I find the following goods to be similar but not highly similar to hair care preparations – skin creams and lotions, toilet water, nutrition creams, moisture lotion, aftershave lotion, milk lotion and cosmetic soaps. I have singled this group of products out because they are items that either share similar physical properties to hair care preparations (creams and lotions) and/or are complementary in the sense that they may be sold as a set (for instance packs of shampoos, creams and soaps are commonly offered in hotel rooms).

34. The remaining goods are somewhat further removed from hair care preparations and in some cases, lipstick for instance, seem to me to be toward the outer reaches of what might be considered similar. Ms McFarland also submitted that there was similarity between deodorants (in the Class 5 specification of No. 76950) and items such as perfume, toilet water, and cosmetic soap. They may be said to be perfumed products for the care or beautification of the body. But all things considered the similarity between them is not particularly pronounced.

35. Turning to the marks, Ms McFarland relied particularly on the VO5 marks and the Alberto VO5 mark which has the broader Class 3 specification encompassing cosmetic and toiletry products. Although VO5 is a relatively straightforward composition of two letters and a numeral, its distinctive character must be assessed by reference to the goods and the perceptions and understanding of consumers (see, for instance, the ECJ's approach to the mark 'SAT.2' in *Sat.1 Satelliten Fernsehen GmbH*, Case C-329/02P). It has not been put to me that the mark in its totality has any particular reference to the character of haircare preparations or the other goods of the registrations or that the letter/numeral combination is otherwise devoid of distinctive character. Basing my initial consideration on the inherent composition and character of the mark I consider it to be possessed of a reasonable, but not a particularly high, degree of distinctive character. The composite mark ALBERTO VO5, clearly, has rather greater inherent distinctiveness.

36. Before considering the character of the applied for mark I should also address the opponent's evidence of use and whether the mark VO5 can be said to benefit from acquired distinctiveness. The high point of the opponent's case is the sales and advertising figures recorded in my evidence summary. Given that all the use is within the hair care preparations area, sales which have been running consistently at about £30 million per annum are by any standard significant as is the supporting TV and print advertising expenditure.

37. Where the evidence is less persuasive is in terms of substantiating detail. Exhibit PD-1 is not specific in terms of goods but, taken in the context of the totality of the evidence must be considered to relate to hair care preparations. What is rather more significant is that the failure to provide examples of products or product packaging means that it is not possible to determine under what mark or marks (e.g. Vo5, ALBERTO VO5 or one of the opponent's other registered marks) the claimed sales were made.

38. PD-2 relates to advertising after the material date but must be read in the context of the further information in PD-1. Again, despite the document heading, it is not clear whether the

advertising was in relation to goods offered under the mark VO5 solus and/or another mark incorporating that element.

39. PD-3 is a single and rather old invoice (from 1987) but does show goods referred to under the mark VO5. The invoice itself is headed Alberto-Culver Company (UK) Ltd.

40. Exhibit PD-4 is an internal document showing VO5 products shipped. It is datable by reference to the heading 'YTD F04'. But that places it after the material date.

41. Exhibit PD-5 is Internet search material also from after the relevant date which variously refers to VO5 and Alberto VO5 though as Ms Clark pointed out the results of the search were conditioned by the search input criteria.

42. Finally, PD-6 is a Boots website print which does indeed show products referenced by VO5 but again the search is a 2005 one. There is some further material at PD-4A of Ms Desimone's second witness statement. A mixture of marks are shown viz Alberto Culver, Alberto VO5 and VO5.

43. There is marked absence of examples of products, product packaging, advertising material and such like to flesh out the bare claims. My conclusion, from considering this material is that the opponent has gone some way down the road to establishing that use has improved the distinctive character of its mark but that it is stretching inference to the limit to be able to say with reasonable confidence that this is the case and relies to an extent on the assertion in paragraph 18 of Ms Desimone's evidence that "Although the Opponent's mark is sometimes also used as Alberto VO5, it is commonly referred to by the Opponent, its distributors, other retailers and the general public as merely "VO5"."

44. The way in which the applicant's mark, VOV, will be perceived is the subject of some debate and is at the heart of this dispute. A number of alternatives were put to me by Counsel for each side. For the applicant Ms Clark submitted that the pronunciation was either with a long 'o' sound as in Hove or a short 'o' sound as in Bob. Ms McFarland said that I could take judicial notice of the fact that V was, or equated, to the Roman numeral for five and that the mark should be treated as consisting of three characters. On that basis the respective marks both have VO as their first elements followed by the numeral 5 or the Roman numeral five. She expanded on it as follows in her skeleton argument:

"The evidence demonstrates the scope for inconsistency in the visual and aural representation of letters that double up as Roman numerals. The Opponent submits that there is a real likelihood that the third character V of VOV will be pronounced phonetically as "five". The likelihood of this pronunciation is greatly increased by the familiarity that a large number of consumers have with the VO5 brand name. Further to considering the mark as a whole, we should look to the overall impression created by it. This overall impression is to be informed by reference to the mark's distinctive or dominant components. It is likely that the consumer will view the VO5 mark to be comprised of two elements – letters and numbers. Though the mark as a whole is certainly distinctive, the "VO" component is arguably the more dominant because it is at the beginning and constitutes the majority of the three character series. On being presented with the word element "VO" at the beginning of a three character series, the natural trip off the tongue or visual expectation is for five (aural), 5 (visual) or 5 (conceptually as the Roman numeral V) to follow. The average consumer, who

would be familiar with the brand, will therefore be more likely to read or pronounce the last V character as its Roman numeral equivalent.”

45. There is no evidence as to how consumers would approach the applicant’s mark. I have some difficulty in accepting the positions adopted by Counsel. The presentational aspects of the applied for mark cannot be ignored. It is not simply VOV. The effect of the block-like background and black on white/white on black presentation seems to me to emphasise the individual character of the elements that go to make up the mark and to minimise the likelihood of the mark being seen as a word. If I am wrong in that or if the mark produces mixed responses then Ms Clark’s fall back position of a short ‘o’ sound is far more plausible than a rhyme with Hove.

46. Despite Ms McFarland’s well-made submissions I can see no reason why consumers would treat the final letter as a Roman numeral. Logic suggests that if that were the case the first letter too should be seen in this way. But consumers simply do not analyse marks or attribute meanings in this way. There is a further flaw in the argument in that to the best of my knowledge there is no 0 (zero) in the Roman system of numerals. So consumers would not be expecting combinations of this kind to represent or contain Roman numerals.

47. With these findings in relation to the nature and distinctive character of the respective marks in mind I turn to a comparison of the applied for mark and the most relevant of the opponent’s marks identified above. The comparison must, of course, take into account visual, aural and conceptual similarities and differences though in practice in the circumstances of this case the three seem to me to be intertwined. The opponent’s strongest point is that VO5 and VOV both start with the same two letters. But it is often said that a single point of difference in short words has greater impact than in long words. Furthermore, the difference here is between a numeral and a letter. That seems to me to make for marks of quite different visual, aural and conceptual character, a situation that is reinforced by the presentational features of the applied for mark. Overall, therefore, I find a low degree of similarity between the marks. I have considered whether the opponent’s use (taking the best view I can of it) alters the position but have decided that it does not. Even if it can be said to heighten the character of the VO5 mark there is no reason to suppose it will fundamentally change consumer perception of the applicant’s mark. Nor is this a case where the risk of imperfect recollection tips the scales in the opponent’s favour. It also follows that the opponent is in an even weaker position based on its Alberto VO5 mark.

48. The likelihood of confusion must be appreciated globally taking all relevant factors into account. Those factors include identical and similar (to varying degrees) goods and marks that have a low degree of similarity. Notional fair use could result in the goods being displayed in the same trading outlets. Consumers are likely to be members of the general public who have the qualities set out in *Lloyd Schuhfabrik*. I allow for the fact that the goods could appear in different price segments of the market and could include relatively low price items that may not attract as much consumer attention as, say, a high price perfume.

49. I have noted the applicant’s evidence as to their success in various other jurisdictions where the parties have been in dispute. However, I have not felt able to give this material any weight as they are not English language jurisdictions (bearing in mind too the observations of the Appointed Person in *Zurich Private Banking Trade Mark*, O-201-04). Weighing these considerations in the balance I find that there is no likelihood of confusion. If consumers did happen to note the existence of a common element, VO, I am not persuaded that, given

exposure to the totality of the marks, they would be led to believe that it was indicative of a common trade source or that any such association would foster the belief that this was a form of brand extension or products from a related undertaking.

50. The opposition fails under Section 5(2)(b).

51. There are further grounds of opposition under Section 5(3) and 5(4)(a) of the Act. Although, as I understand it, the opponent's primary case is under Section 5(2), neither of the alternative grounds has been given up. In practice Ms McFarland let her case rest on the basis of her skeleton argument. Submissions at the hearing were, accordingly, brief.

Section 5(3)

52. Following the Trade Mark (Proof of Use, etc.) Regulations 2004, Section 5(3) of the Act now reads:

“5.(3) A trade mark which –

(a) is identical with or similar to an earlier trade mark,

shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the United Kingdom (or, in the case of a Community trade mark, in the European Community) and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark.”

53. The amendments to the Act implemented the decision of the European Court of Justice in *Davidoff & Cie SA and Zino Davidoff SA v Gofkid Ltd* of 9 January 2003 (C-292/00) which was confirmed by its decision in *Adidas-Saloman AG and Adidas Benelux v Fitnessworld Trading Limited* of 23 October 2003 (C-408/01). Those judgments determined that Article 5(2) of the Directive applies to goods or services which are similar or identical to those for which the earlier trade mark is registered as well as dissimilar ones.

54. The opponent's case has been put on the basis of either similar or dissimilar goods. I have already concluded that identical and similar goods are involved but that the degree of similarity is not uniform across the whole range of applied for goods. I will assume for present purposes that the opponent has established a reputation that would bring it within the terms of *General Motors Corporation v Yplon* 1999 E.T.M.R. 950 (see paragraphs 26 and 27 of the ECJ's judgment).

55. As Ms McFarland's skeleton argument reminded me by reference to *Premier Brands UK Ltd v Typhoon Europe Ltd*, [2000] ETMR 1071 at 1094-5 there is no requirement for confusion to be established before Section 10(3) (and hence Section 5(3)) may be invoked. It is, however, a requirement that an opponent is able to show that the proposed use would, without due cause, take unfair advantage of or be detrimental to the distinctive character or repute of the earlier trade mark. The specific complaint identified in this case is that the applied for mark “takes unfair advantage of the repute of the Opponent's earlier marks and will undoubtedly lead to dilution of the distinctiveness of the Opponent's marks through blurring”.

56. My finding of no likelihood of confusion is not in itself fatal to either of these bases of objection. But for the objection to get off the ground it would require the opponent to satisfy me that, though not confused, the average consumer would make an association between the marks and that the association was such that the applicant would gain some advantage for its own mark or cause detriment to the distinctive character of the opponent's mark. I can see no plausible basis for such a finding. Even if an association was made (which I doubt) it would in my view be so fleeting and inconsequential that there would be neither gain for the applicant nor loss to the opponent.

Section 5(4)(a)

57. There is no dispute as to the applicable principles in relation to the final ground of objection under Section 5(4)(a). Those principles are set out in *Wild Child Trade Mark* [1998] RPC 455. Ms McFarland's skeleton argument realistically accepted that the Opponent must be entitled to protection under Section 5(2)(b) if it is also to be afforded protection under Section 5(4)(a). That is also my view of the matter. The opponent's use does not bring into play any wider or materially different issues to those considered in relation to Section 5(2)(b). This ground also fails.

COSTS

58. The applicant has succeeded and is entitled to a contribution towards its costs. I order the opponent to pay the applicant the sum of £1800. 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 23rd day of December 2005

**M REYNOLDS
For the Registrar
the Comptroller-General**

Opponent's UK and CTM registrations:

No.	Mark	Class	Specification
1006223		3	Cosmetics, non-medicated toilet preparations and toilet articles included in Class 3.
818207	ALBERTO VO5	3	Preparations for treatment of the hair, and non-medicated toilet preparations for application to the skin.
1125985	VO5 QUICKSET	3	Preparations for the hair having setting properties.
1239750	ALBERTO VO5 ALIVE	3	Preparations for the hair, for use in spray form; hair dressing lotions; lotions for colouring the hair; hair conditioning lotions; hair conditioning shampoos.
1417218		3	Preparations for the hair included in Class 3.
1474750	VO5 HOT OIL TREATMENT	3	Shampoos for the hair and preparations for conditioning the hair; all containing oil or oily substances; all included in Class 3.
2050215	VO5 HAIR FOOD	3	Preparations for the hair; shampoos, conditioners, hair mousses, hair gels, hair sprays; preparations for styling, waving, colouring, bleaching, neutralising or finishing the hair; hair treatments containing or consisting of oil or oily substances.
2106861	VO5 SELECT	3	Preparations for the hair.
2323158	VO5 REWORK	3	Hair care preparations.

77057 (CTM)	ALBERTO VO5	3	Cosmetic and toiletry products, hair care products, shampoos, conditioners, hair sprays, mousses, gels, hair dyes and waves, skin care creams, lotions and cleaning products.
		5	Hygienic and sanitary products, deodorants and oral care products.
1027964	VO5	3	Preparations for the hair, for use in spray form; hair dressing and conditioning lotions, and shampoos.
2106863	VO5	3	Preparations for the hair.
76950 (CTM)	VO5	3	Hair care products, namely, shampoos, conditioners, hair sprays, mousses, gels, hair dyes and waves.
		5	Hygienic and sanitary products, deodorants and oral care products.