

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION No 2142493  
by CABLECO DUPLEX LIMITED  
5 TO REGISTER A TRADE MARK IN CLASS 9

AND IN THE MATTER OF OPPOSITION THERETO  
UNDER NUMBER 48632  
10 by CABLE AND WIRELESS PLC

## DECISION

15 On 20 August 1997, Cableco Duplex Limited of Cableco House, Newquay Road, St Columb Road, St Columb, Cornwall, TR9 6PZ, applied under the Trade Marks Act 1994 for registration of the Trade Mark **CableCo** in respect of the following goods in Class 9:

20 “Data communications equipment and hardware; electrical cables and cable assemblies; networking devices.”

The trade mark was accepted because of the distinctiveness acquired through use.

25 On the 4 June 1998 Cable and Wireless Plc of 124 Theobalds Road, London, WC1X 8RX filed notice of opposition to the application. An amended ground of opposition was filed on 12 March 1999. The amended grounds of opposition are in summary:

i) The mark applied for is not a trade mark in that it is unable to distinguish the goods of one undertaking from another. It therefore offends against Section 1(1) and 3(1)(a).

30 ii) The mark applied for offends against Section 3(1)(b) and 3(1)(c)

35 iii) The mark applied for offends against Section 3(1)(d) as it consists exclusively of a sign or indication which has become customary in the current language and in the bona fide and established practices of the trade.

iv) The mark applied for offends against Section 3(3)(a) in that it is contrary to public policy for any one trader to monopolise the common English words “Cable” and “Co.”.

40 v) The mark applied for offends against Section 3(3)(b) in that it would be deceptive if not used on cables.

The applicant filed a counterstatement denying all the grounds of opposition. Both sides asked for costs. Both sides filed evidence in these proceedings and the matter came to be heard on 23 June 2000 when the applicant was represented by Mr Brown of Alpha Omega and the opponent  
45 by Mr Alexander of Counsel, instructed by Stephenson Harwood.

## OPPONENT'S EVIDENCE

This takes the form of five statutory declarations. The first, dated 29 October 1998, is by Tibor Zoltan Gold. He is the head of the Intellectual Property Department of Stephenson Harwood, the  
5 opponent's agents.

Mr Gold states:

10 "In my opinion, the mark "CableCo" is a highly descriptive word, aptly describing a "Cable Company" - that is a company engaged in the manufacture or sale of cables, cable assemblies, networking devices and related data communications equipment and hardware. The mark consists only of the descriptive word CABLE and the abbreviation CO, which I understand to be an abbreviation for the word COMPANY."

15 "Therefore, I asked myself whether the said evidence of use is sufficiently extensive, of itself, to show that the public are educated into recognising that the mark 'CableCo' has sufficient distinctive character to distinguish the goods of one company engaged in the manufacture or sale of cables, cable assemblies etc. from that of other 'cable' companies engaged in the same business, and so to let the applicant claim proprietary rights by  
20 registration in the mark."

At exhibit TZG1 Mr Gold provides a copy of a statutory declaration made by Mr John Stringer, the Managing Director of the applicant. The declaration was made in support of the application. The declaration states that :

- 25
- The mark has been used "in one form or another" continuously since 1986.
  - Annual turnover under CableCo has averaged £500,000 per annum for seven years.
  - 30 • The promotional budget is £25,000

In addition, attached as exhibits are, a brochure with the company name on each page, a list of customers, which includes several multi nationals, various leaflets with "CableCo" in an oval which also feature the terms "Multireeler" and "Minipatch".

35 Mr Gold then comments on the substance of the declaration as follows. He claims that the average annual turnover of £500,000 is "not a vast amount by any means in this industry". He also claims that an annual advertising and promotional budget of £25,000 is not enough to make the mark applied for distinctive of the goods applied for. Mr Gold asserts that mere evidence of use  
40 is not enough to prove distinctiveness.

Finally Mr Gold claims that the specification claimed is too broad and that in his view no company would be able to supply all the possible goods covered by the specification.

45 The second statutory declaration, dated 29 October 1998, is by Keith Robert Farwell. He is a consultant to Stephenson Harwood, the opponent's agents. Mr Farwell states that he carried out a search of the records of the UK Companies Register. He found seven companies with the word

CableCo as the first term of their name. The applicant was one of these and two others were associated with the applicant. The other companies were not associated although two had been dissolved. Mr Farwell supplies copies of the Annual Returns of the companies as exhibits to his declaration.

5

Mr Farwell also searched for Company names featuring:

- (a) "Cable" anywhere within the name
- (b) "Cable" and "Co." within the name
- (c) "Cable"....."Co."

10

He states that his searches revealed 1577 records, which are produced at exhibit KRF6. He lists eight which have the words "Cable" and "Co." adjacent to each other within the company name. He provides the annual returns for these companies at exhibit KRF7.

15

The third statutory declaration, dated 11 December 1998, is by Jeffrey Michael Green a partner in the firm of Amsel & Co. He states that his firm provides an independent research facility into the use of trade marks and other intellectual property rights. Mr Green states that his company was instructed by the opponent's agents to carry out investigations into the trading activities of various companies using the sign "CableCo" or the variants "Cableco" or Cable Co." as part of their company name, from the list supplied by the agents. Ten of the companies have either been wound up, dissolved, are about to be dissolved, have not filed accounts and/ or annual returns.

20

25

At exhibit JMG1 are a letter, an order form and three price lists from "The Electric Cable Co.". The company states in its letter that it supplies a variety of cables.

At exhibit JMG2 is a brochure from "Cableco Romans Ltd" which shows that they supply and install low and high voltage cables, transformers, switchgear and also provide maintenance.

30

At exhibit JMG3 is a letterhead from "The Specialist Cable Co Ltd".

The fourth statutory declaration, dated 11 November 1998, is by Jaqueline V. McDowell, who works for the opponent as a General Manager Commercial of the Capacity Management Department, Network Services.

35

Ms McDowell states that prior to her current position she was responsible for the negotiation of Joint Venture Agreements within the Marine Division of the opponent. She continues

40

"The Marine Division is responsible for the operation and management of Cableships, by which I mean ocean-going vessels adapted or specially commissioned to operate in deep-sea marine environments, and for the installation of undersea data communication networks incorporating electrical or fibre-optic cables, cable assemblies and networking devices."

45

"I now state on oath that in my opinion and experience as aforesaid, the term "CableCo" is a wholly descriptive and generic term which is used extensively by the Company and

also by its Joint Venture Partners, inter alia to describe a “Cable Company” engaged in the operation and management of Cablesystems and the installation of undersea data communications networks.”

5 “In my experience as aforesaid of the Joint Venture Agreements which the Company negotiates, the terms “CableCo” and “NewCo” are typically used interchangeably to describe a Company which is in the business of constructing, installing, operating, managing, owning and selling capacity in a Cable System and the Backhaul. The Company will typically incorporate a Joint Venture Company which contains within its company name the term “CableCo” and then frequently, but not necessarily, change the company name on completion of the said Joint Venture negotiations.”

15 Ms McDowell provides the following definitions:

Cable System: a network of installed cables and communication apparatus and equipment linking nodal points and forming part of the world wide communication network.

20 Backhaul: the process of hauling back such cables from their positions on the seabed.

Ms McDowell refers to a Joint venture Agreement which she was personally involved in negotiating which was effective as of 31 October 1996. The term “CableCo” was used in the descriptive and generic manner described earlier. As this agreement is commercially confidential, it is not produced as an exhibit.

25 The fifth statutory declaration, dated 30 October 1998, is by Christine Elizabeth Slight employed by the opponent as a Senior Legal Adviser.

30 Ms Slight states that in her view the word “CableCo” means a Cable Company. By which she means any company which is in the business of laying cables for the transmission of data, or any company which is in the business of selling access to a network of electrical; or fibre optic cables.

35 Ms Slight states that the opponent uses the term CableCo in the descriptive sense stated above. She states that such use is normally as two words “Cable Co”, and sometimes in the plural “Cable Cos”. At exhibit CES1 is a copy of a page from the opponent’s Annual Report for 1997 which has numerous examples of the use of the words “Cable Co” and “Cable Cos”.

40 Lastly, Ms Slight states that she does not believe that there is any material difference between “CableCo” and “Cable Co” or “Cable Cos”. She claims that if the registration is permitted then the opponent will not be able to use the term in a descriptive fashion to describe any Cable Company and would therefore be disadvantaged.

#### 45 APPLICANT’S EVIDENCE

This consists of four statutory declarations. The first, dated 16 March 1999, is by John Stringer the Managing Director of CableCo Duplex Limited, the applicant.

Mr Stringer claims to have been employed by the opponent from 1967 to 1976 as a Cable Engineer. He states that when he left he was “second in charge of the Cable Engineering Department on one of their cable ships”.

5 Mr Stringer states that prior to registering his company he instructed solicitors to “do a company search on the made up word CableCo”. This search, he says, confirmed that at the time the name was original. He states that the name was suggested by the Company Secretary, and also that the CO in CABLECO stood for Cornwall (where they are located) as far as the applicant was concerned.

10 Mr Stringer claims that the opponent and its subsidiary, Mercury Communications Ltd, were included in the first mail shot in 1986. He also claims that he visited a Mr Donohue at Mercury also in 1986 and that as a result Mr Donohue placed a number of orders for goods which had the CableCo brand on them. Mr Stringer also refers to a “friend” who was a senior manager working for the opponent who it is said distributed the applicant’s literature within Cable and Wireless Head Office “at around 1986 / 7”.

15 Mr Stringer states that his company has exhibited at the National Trade Exhibition each year since 1986, and has also carried out many mailshots. He provides a floppy disc at exhibit JS01 which he states contains details of the current product range, and is the format in which they present their products to customers. The disc shows a revision date of March 1999.

20 Mr Stringer refutes the comments made about the size of the applicant’s promotional budget, stating that “the provision of a reliable service to hundreds of customers in all market sectors and our impeccable record on the supply side have contributed to the reputation of the trade mark CABLECO. He also points out that their budget of £25,000 allows for their presence at two major National Trade Shows and mail shoot 20,000 companies.

25 Mr Stringer states that the decision to register the name CableCo as a trade mark “was not an attempt to capitalise on the use of the name CableCo as a name for a new company in the cable industry, but was prompted by our reputation being damaged by some of the companies listed by the opponents directly interfering in our customer and supplier operations”. At exhibit JS02 Mr Stringer provides a copy of a letter sent to a company called Cableco Ltd in Maidenhead, dated 1 August 1997 by the applicant’s solicitor threatening action.

30 The second statutory declaration, dated 15 March 1999, is by Eric Bishop, a Network Platform Manager for BACS Limited.

35 Mr Bishop states that he has been in the telecommunications industry for twenty-five years and that throughout this period, ordering and installing computer cabling has been part of his role. He states that BACS Limited have been ordering goods from the applicant since 1986. He confirms that he recognises the trade mark CableCo as the trade mark of the applicant, and that “if I saw products of the type mentioned above which carried the trade mark CableCo I would assume that they had been supplied by CableCo Duplex Limited”.

40 The third statutory declaration, dated 11 March 1999, is by Peter Ernest Scott who is an IT Location Manager for MDIS Limited. Prior to this post Mr Scott was, between 1982 - 1993,

the Police Computer Operations Manager for the Devon and Cornwall Constabulary. He states that in both roles he has been involved in the purchase of cabling, connectors and other peripheral equipment connected with the computer industry. He states that since 1986 he has ordered cables, connectors, switches and hubs from the applicant. He states that all the items were tagged or  
5 labelled CableCo and that “I would assume that products of the type mentioned above which carried the trade mark CableCo had been supplied by CableCo Duplex Limited”.

10 The fourth statutory declaration, dated 8 March 1999, is by Michael Stanley Brown the applicant’s trade mark agent.

Mr Brown claims that the opponent’s evidence concentrated upon company names rather than trade mark usage. He states that:

15 “The statutory requirement is that a trade mark shall not be refused registration 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. The acceptance of the present application is thus an indication that the Registry is satisfied that, at the relevant date, i.e. the 20<sup>th</sup> August 1997, the mark  
20 CableCo had acquired a distinctive character as a result of the use made of it.”

He also comments that:

25 “Exhibit JMG2 to the declaration executed by Mr Green comprises literature published by Cableco Romans Limited. The word Cableco appears a number of times in the literature, but always as part of the name of the company, Cableco Romans Limited, not as a trade mark.”

#### 30 OPPONENT’S EVIDENCE IN REPLY

This consists of three statutory declarations. The first, dated 6 May 1999, is by Gary Romans, the Managing Director of Cableco Romans Limited.

35 Mr Roman states that Cableco Romans Ltd was formed by the merger of two companies’ Cableco Limited and Romans Cable Installation Limited. He claims that Cableco Romans has traded under that name since 1994 and has built up a valuable reputation over the last five years. He provides figures for 1997 - 1998 and 1998 - 1999 which shows an average turnover of £1million. He refutes that his company is trying to damage the applicant’s reputation or interfere in the customer and supplier operations of the applicant.  
40

Finally, he states:

45 “I understand that registration of a trade mark grants the trade mark owner the right to exclude others from using a mark which is either identical with, or confusingly similar to, the mark which is registered. In view of the use which Cableco Romans has made of that name over the past five years, I would very strongly object to registration of the trade mark Cableco being granted.”

The second statutory declaration, dated 29 April 1999, is by Keith Robert Farwell who made an earlier declaration in this case. Mr Farwell states that he carried out a postal survey of persons engaged in the fibre optic cable industry and electrical engineering industry to seek to establish the extent of the reputation of the applicant in the mark CableCo.

5

Mr Farwell states that he selected persons from the records of Stephenson Harwood, the opponent's trade mark agents. These records produced six names. Mr Farwell then consulted the 1998 directory of the Fibre-optic Industry Association and selected twenty companies. He then consulted the list of members of the Institution of Electrical Engineers and selected five respondents. He sent letters to all those he had selected and copies of these letters are provided at exhibits KRF sup 1 - 3.

10

Mr Farwell claims that "I believe that the inherently random selection process which I decided to make ensures a sufficient spread of potential respondents across the relevant industry sector".

15

At exhibit KRF sup4 Mr Farwell supplies the originals of all the questionnaires that were returned to him. Out of the 31 questionnaires sent out there were 14 replies. Mr Farwell states that an analysis of the returned forms shows that none of the respondents identified the word "CableCo" as a sign or badge of origin associated exclusively with the applicant.

20

The third statutory declaration, dated 15 June 1999, is by Jacqueline V. McDowell, who also made an earlier declaration in this case. Referring to the statutory declaration made by John Stringer dated 16 March 1999, Ms McDowell states:

25

"The said John Stringer states that he was employed by Cable and Wireless Plc from 1967 to 1976 as a cable engineer. I have made due and diligent enquiries, including enquiries with the Cable and Wireless Marine Division (Marine) and then the Human Resources Department (HR) of Cable and Wireless Plc, but I am unable to find any details relating to the said claim of employment. However, to place this in context, I should state that in 1976, Cable and Wireless Plc was a nationalised industry employing in excess of 10,000 staff."

30

"I have also made due and diligent enquiries, including further enquiries with HR, to seek to establish whether there is any record of the persons referred to in paragraphs 5 and 6 of the said statutory declaration of the said John Stringer. Again, I was not able to find any evidence that a Mr Neil Donohue (whether or not spelt in the manner referred to by the said John Stringer) was employed by Mercury Communications Ltd, a subsidiary of Cable and Wireless Plc, in 1986. To place this in context, Cable and Wireless Plc and its subsidiary companies were, by 1986, employing in excess of 24,000 staff in the UK and elsewhere. Furthermore, as will be public knowledge, Mercury Communications Limited merged with a number of other Cable Co's to form Cable and Wireless Communications Plc, and many staff have moved jobs."

35

40

"I can state that neither I nor any persons I have contacted at HR at Cable and Wireless Plc or the Marine Division of Cable and Wireless Plc have any recollection of any contact at all from Mr Stringer in the past five year period, nor do any of the persons I have contacted have any knowledge of any business carried on by Mr Stringer by reference to

45

the term “CableCo”, or of any publicity material produced by him.”

#### APPLICANT’S FURTHER EVIDENCE

5 This consists of a statutory declaration, dated 20 July 1999, by John Stringer, who has made a declaration earlier in this case.

10 Mr Stringer comments that in the survey carried out for the opponent and referred to in Mr Farwell’s declaration a company called AMP was included. Mr Stringer claims that AMP is the world’s premier company in connector technology covering all fields of the cable industry. At exhibit JS/A1 Mr Stringer provides a letter from Ian Clark the Commercial Manager of AMP of Great Britain. In this letter Mr Clark states that his company had an annual revenue of approximately US\$5.5billion in 1998. He confirms that AMP has been trading with the applicant, both as a customer and supplier since 1991. He states that “Since that time we have received  
15 orders with the recognised company logo, which is a black oval shape with the words CableCo contained therein in a white type-face”.

20 Mr Stringer also points out that the survey included Honeywell Control Systems Limited. He claims that Honeywell has been a regular customer of his company since 1994 and at exhibit JS/A2 he produces a copy of an order from Honeywell. The order is dated May 1999 and is for £48 worth of goods.

25 Another company included in the survey was 1<sup>st</sup> Connection Limited. At exhibit JS/A3 is a letter from this company stating that they are a customer of the applicant and that they are familiar with its trademark which is described as “a blue and black oval with the made-up word CableCo”.

Mr Stringer further comments that:

30 “I have noted that Mr Farwell’s survey does little to cover the public sector, in which we are active. I have also noted that Professor Flood, who is included in Mr Farwell’s survey is a retired person at a private address. Dr Bear is, I believe, a consultant and AVC Limited is not listed by Directory Enquiries as being in Hertford.”

35 Lastly Mr Stringer states that his company is active in other fields and at exhibit JS/A4 he provides pages from the publication “Engineering and Technology”, dated January 1998, which features the work of a company called Nimbus Records, described by the magazine as “presently one of the world’s leading companies in the development and sales of CD manufacturing technology”. Included in the pages is an advertisement by the applicant which states “CableCo are pleased to be associated with Nimbus Technology & Engineering”.  
40

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

#### 45 DECISION

At the hearing the ground of opposition under Section 3(3)(b) was withdrawn.

I consider first the grounds of opposition under Sections 1(1) and 3(1) of the Act. Section 1(1) of the Act is in the following terms:

5            “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”.

10            “A trade mark may, in particular, consist of words (including personal names), designs, letters, numerals or the shape of goods or their packaging.”

Section 3(1) of the Act is in the following terms:

3 (1) The following shall not be registered -

15            (a) signs which do not satisfy the requirements of section 1(1),

(b) trade marks which are devoid of any distinctive character,

20            (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,

25            (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.

30            *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.*

35            There is no suggestion that the mark is not represented graphically so the objection relates to the inherent capacity of the mark to distinguish the applicant’s goods. The question is whether the word “CableCo” can perform the function of a trade mark. In considering this question I have regard to the comments of Aldous L.J. in *Philips Electronics NV v. Remington Consumer Products Ltd* [1999 RPC 809 at 818]:

40            “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.

45            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.”

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]:

5  
10  
15  
“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.”

20  
“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.”

25  
I am not convinced that the term CableCo is so descriptive that I can say now that the applicant will never be able to educate the public to regard the term as a trade mark denoting only its goods or services. The term therefore passes the “soap for soap” test of Section 1(1) and 3(1)(a).

30  
However, in my opinion the term is devoid of any distinctive character. It is merely the shortened version of company (Co) abutted to the word Cable and aptly describes a company which manufactures or supplies cables, in this instance electrical cables. I do not accept that the average consumer would view the term Co as standing for the location of the company, namely Cornwall, as claimed by Mr Stringer as the term Co is not a common abbreviation for Cornwall. It has a widely understood meaning as being the shortened version of the word company.

35  
40  
I must therefore consider the evidence of the applicant that at the relevant date, 20 August 1997, the average consumer had been educated into viewing the term “CableCo” as providing a guarantee as to the trade origin of the goods specified. Where an applicant relies upon evidence of acquired distinctiveness then the burden of proof would appear to be on the applicant. The comments of Lloyd J. in *Dualit Ltd’s Application* {1999 RPC 890 at paragraph 30}:

45  
“ I have mentioned the burden of proof. In *Procter & Gamble* the Court of Appeal said that it was “doubtful whether it helps to discuss the judgement which the Registrar has to make in terms of burden of proof”. However, in that instance no case was put forward that distinctive character had been acquired through use. Where such a case is made, as here, the burden of proof must be at least potentially relevant. The Hearing Officer 9[1999] RPC 304 at 314, lines 26 -28) assumed no burden of proof either way. That

seems to me, in principle, too favourable to the applicant, though in practice it may not have made any difference.”

5 The statutory declaration, dated 18 November 1997, originally supplied by Mr Stringer in support of his application was filed as an exhibit by the opponent. In addition, as part of this case, the applicant has filed further evidence of use. In total these show that the company uses “CableCo” on its leaflets (sometimes in a black oval), has sales averaging £500,000 per annum and has attended trade fairs and employed direct mailshots to customers. They also filed four letters from purchasers of their products all of whom stated that they would recognise the word CableCo on a product as denoting that it originated from the applicant. However, in two of the letters reference was made to a black or blue and black oval with the word CableCo in a white type face. This suggests that the mark which these customers are claiming to recognise is not identical to that which is the subject of this application.

15 Even if I were to accept that all four customers recognised the term “CableCo” as the trade mark of the applicant this is not sufficient to persuade me that a significant proportion of the relevant class of persons (ie the average consumer of such goods) would regard the term “CableCo” as indicating that the goods originated from the applicant.

20 The applicant has shown that it has enjoyed a reasonable turnover under the mark in the seven years preceding the application. However, as Morrill L.J. stated in *Bach Flower Remedies* [2000 RPC 513 at 530 lines 19-21]:

25 “First, use of a mark does not prove that the mark is distinctive. Increased use does not do so either. The use and increased use must be in a distinctive sense to have any materiality.”

30 Considering all of the evidence put in by the applicant in support of the application I am not persuaded that the applicant has shown that the mark has acquired distinctiveness through use. The opposition under Section 3(1)(b) therefore succeeds.

In view of this finding I do not need to consider the other grounds of opposition.

35 The opposition having been successful the opponents are entitled to a contribution towards their costs. I order the applicants to pay the opponents the sum of £1185. 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.

40 Dated this 11 day of September 2000

45 George W Salthouse  
For the Registrar  
The Comptroller General