

**TRADE MARKS ACT 1994 and  
THE TRADE MARKS (INTERNATIONAL REGISTRATION) ORDER 1996**

**In the matter of  
International Registration no: 722283  
and the request by Société C.C & A, société anonyme  
to protect a trade mark in Classes 35, 38 and 41**

**DECISION AND GROUNDS OF DECISION**

**BACKGROUND**

1. On 14 October 1999, Société C.C & A, société anonyme of 40, rue du Colonel Pierre Avia, F-75015 Paris, France, on the basis of international registration no. 722283, requested protection in the United Kingdom, under the provisions of the Madrid Protocol, of the Trade Mark:

**CALL CENTER ALLIANCE**

The following words appear beneath the mark on the form of notification:

*Indication relating to the nature or kind of mark:* standard characters.

The International Registration is numbered 722283 and protection is sought in Classes 35, 38 and 41 in respect of:

35. Advertising.

38. Telecommunications.

41. Education; training.

2. It was considered that the request failed to satisfy the requirements for registration in accordance with Article 3 of the Trade Marks (International Registration) Order 1996, and on 31 January 2000 notice of refusal under Article 9(3) was given because the mark is excluded from registration by Sections 3(1)(b)&(c) of the Trade Marks Act 1994. This is because the mark consists exclusively of the words CALL CENTER ALLIANCE, the whole being a sign which may serve in trade to designate eg services relating to call centres / alliance of call centres. Objection was also raised Under Section 3(6) but following a change in the registrar's practice this objection is waived and I need say no more about it.

3. On 20 July 2000 Ms Michelle-Elaine Sidwell responded on behalf of the holder, giving details of her company's activities under the mark. In an official letter dated 21 August 2000 the objections under Sections 3(1)(b)&(c) were maintained.

4. A form TM33 was filed on 16 July 2000 appointing one firm of trade mark attorneys as UK agent and address for service, then on 20 October 2000 a second form TM33 was filed appointing another firm of trade mark attorneys, who requested a hearing which was appointed for 25 September 2001. On 11 September 2001 Ms Sidwell wrote to the hearings clerk saying that the UK attorneys would not be representing the holder, and asking for a new date for the hearing.

5. An official letter was sent to Ms Sidwell at the holder's Paris address on 21 September 2001, asking her to provide a new address for correspondence in the UK, enclosing a form TM33 for the purpose, and explaining that once the completed form TM33 had been received by the Registry a new hearing date could be arranged.

6. On 9 October 2001 the examiner received an email from Bénédicte Devevey, trademark attorney for the holder, enquiring after the current status of the application and next deadline. In reply, the examiner sent an email dated 11 October 2001 referring to the official letter to Ms Sidwell of 21 September 2001.

7. On 20 November 2001 a further official letter was sent to Ms Sidwell at the Paris address, referring her to the official letter dated 21 September 2001 and reminding her that a new hearing date would be arranged as soon as a form TM33 was filed to appoint a new address for service in the UK. The letter stated that the designation would be formally refused in the UK if the holder did not file form TM33 by 20 January 2002.

8. No form TM33 having been received, formal notice of refusal under Article 9 of the Trade Marks (International Registration) Order 1996 was issued to the holder at the French address on 6 March 2002. The holder responded on 29 March 2002 by requesting a form TM5 in order to appeal the decision. After further email correspondence with members of the Registry, on 6 April 2002 the holder filed a form TM33 appointing a UK address for service.

9. The notice of refusal having been upheld under Article 11(4)(a)(i) of the Trade Marks (International Registration) Order 1996, I am now asked under Section 76 of the Act and Rule 62(2) of the Trade Marks Rules 2000 to state in writing the grounds of decision and the materials used in arriving at it.

10. No evidence of use has been put before me. I have, therefore, only the prima facie case to consider.

## **THE LAW**

11. Sections 3(1)(b) and (c) of the Trade Marks Act 1994 read as follows:

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

- (a) .....
- (b) trade marks which are devoid of any distinctive character,
- (c) trade marks which consist exclusively of signs or indications which may

serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of services, or other characteristics of goods or services,”

## DECISION

12. The mark consists exclusively of the words CALL CENTER ALLIANCE in standard characters.

13. The Concise Oxford Dictionary (Oxford University Press 2001) gives the following meaning for **call centre** *n.* an office in which large numbers of telephone calls are handled, especially one providing the customer services functions of a large organization.

14. Collins English Dictionary (Third Edition Updated 1994) has the following entries:  
**center** *n., vb.* the U.S. spelling of centre.

**alliance** *n.* 1. the act of allying or state of being allied; union; confederation.

15. In my view the UK public are used to seeing US spellings of words such as “center” and equating them to the English spelling with little or no further thought. Therefore the term CALL CENTER ALLIANCE in totality is likely to convey to the general public an alliance or confederation of offices where telephone calls are handled. Publicity literature filed by the holder (reproduced at Annex A) lists the Call Center Alliance members and claims that it is “the largest independent consortium specialized in Customer Contact Centers”.

16. After further consideration I have waived the objection under Section 3(1)(c). I now go on to consider the objection under Section 3(1)(b).

17. Geoffrey Hobbs QC acting as the Appointed Person in "*Cycling IS.....*" Trade Mark, BL O/561/01 made the following comments:

"66. That brings me to the question of whether the signs possess a distinctive character enabling them to fulfil the essential function of a trade mark in relation to goods and services of the kind specified in the application for registration.

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

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

69. The difference between these two positions resides in the question whether the

perceptions and recollections the signs would trigger in the mind of the average consumer of the specified goods and services would be origin specific or origin neutral.

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

.....

74. It seems to me that the perceptions and recollections the signs would trigger in the mind of the average consumer of the specified goods and services would be origin neutral (relating to the general commercial context of the relevant trading activities) rather than origin specific."

18. It seems to me that the meaning which the sign CALL CENTER ALLIANCE is likely to convey to the average consumer is that of an alliance or grouping of call centres. It is not uncommon for companies to form consortiums, and I see nothing about the term CALL CENTER ALLIANCE which would lead the average consumer to believe it referred to a specific alliance of call centres. The function of a trade mark is to distinguish the services of one undertaking from those of other undertakings. In my view the mark is origin neutral because it does not identify the services of one undertaking, but identifies only that it is a member of a commercial alliance. For this reason I consider the mark to be debarred from registration by Section 3(1)(b).

19. In this decision I have considered all the documents filed by the applicant and all the arguments submitted to me in relation to this application and, for the reasons given, the notice of refusal was upheld.

Dated this 16<sup>th</sup> day of August 2002.

**ANNE PRITCHARD**  
**For the Registrar**  
**The Comptroller General**

**Annex A in paper copy**