

O-518-14

**TRADE MARKS ACT 1994**

**IN THE MATTER OF APPLICATION NO 3018605  
BY C BEVERAGES LTD TO REGISTER THE TRADE MARK**

**Get Juiced**

**IN CLASS 32**

**AND IN THE MATTER OF OPPOSITION  
THERE TO UNDER NO 401384  
BY RESOURCE MEDICAL (UK) LIMITED**

## BACKGROUND AND PLEADINGS

1) C Beverages Ltd (“the applicant”) applied to register the trade mark “Get Juiced” in the UK on 17 August 2013 (“the relevant date”). It was accepted and published in the Trade Marks Journal on 20 September 2013 in respect of *Fruit drinks* in Class 32.

2) Resource Medical (UK) Ltd (“the opponent”) filed an opposition to the application on 19 December 2013. It opposes the trade mark on the basis of Section 5(4) (a) of the Trade Marks Act 1994 (“the Act”). This is on the basis of its alleged earlier rights in GET JUICED and the following logo mark (“the logo mark”):



3) The opponent claims that *fruit juices* and *fruit smoothies* have been sold under these marks since 1990 and that it has acquired goodwill under these marks. Use of the mark applied for would therefore be a misrepresentation to the public and result in damage to the aforementioned goodwill.

4) It explains that a company called Get Juiced Limited was the previous proprietor of the earlier rights but ceased trading on 31 July 2013 and a Provisional Liquidator was appointed on 7 August 2013. Metis Partners were subsequently appointed to support the marketing and sale of the intellectual property assets of Get Juiced Limited. The opponent acquired, from the Provisional Liquidator, the unregistered marks and goodwill relied upon in these proceedings on 15 November 2013.

5) Further, or in the alternative, it also opposes the trade mark on the basis of Section 3(6) of the Act claiming that the application was made in bad faith. It argues that this is on the basis of the applicant having full knowledge of the goodwill and reputation identified by the earlier marks. It claims that the applicant was aware that the opponent’s predecessor (who had the ownership of the goodwill identified by the earlier marks) had entered liquidation because it had made its own enquiries about purchasing the goodwill and associated intellectual property rights of the company from the Provisional Liquidator. It did not pursue the purchase but rather the applicant filed the contested application in its own name and subsequently offered to sell the application and a related Community Trade Mark (“CTM”) to the opponent for £20,000.

6) The applicant filed a counterstatement denying the claims made. It denies that there was sufficient use made of the earlier marks in order to found a claim of

passing off at the filing date of the application. It further denies that the opponent is the rightful holder of any reputation or goodwill attaching to such use. It refers to the opponent's statement that it "acquired from the provisional liquidator various assets of Get Juiced Limited including all of the unregistered trade mark rights and goodwill in the GET JUICED brand...on 15 November 2013" and observes that any rights were not owned by the opponent at the filing date of the contested application, namely 17 August 2013. The applicant denies that its application to register "Get Juiced" is a deliberate misrepresentation, nor is it contrary to Section 5(4)(a) of the Act.

7) The applicant also strongly denies that the application was filed in bad faith, pursuant to Section 3(6) of the Act. It states that it did not make enquiries to purchase the intellectual property rights from the liquidator as alleged. Rather it only became aware of the sale after the filing date following "a discussion with an independent third party" who believed he had bought the rights and after a letter from the Provisional Liquidator on 29 August 2013. At the time of filing, the applicant had no knowledge of the publication by Metis Partners of the sale of the intellectual property rights. It also denies that it offered to sell the application and a related CTM to the opponent for £20,000. It says the way it is characterised by the opponent is misleading and it claims the applicant:

**contacted the opponent's representatives after receiving the Form TM7A, Notice of Threatened Opposition, to enquire why their client was intending to oppose the trade mark application. During this conversation, the opponent's representatives directly asked the applicant whether he would be willing to sell the Community and UK trade mark applications. The applicant did not, in any way, invite this question and its intention in calling the opponent's representatives was simply to find out why the Notice of Threatened Opposition had been filed; not to induce an offer to purchase the application. It is however admitted, that after further consideration, the applicant reverted back to the opponent's representatives with an offer in response to their query. In fact the opponent then responded to this offer with a counter-offer.**

8) Only the opponent filed evidence in these proceedings. This will be summarised to the extent that I consider it necessary. Only the opponent filed written submissions which I will keep in mind. No hearing was requested and so this decision is taken following a careful perusal of the papers.

## **Opponent's evidence**

9) This takes the form of two witness statements by Gareth Ian Price, trade mark attorney with Urquhart-Dykes & Lord LLP, the opponent's representative in these proceedings and a further witness statement by Zulfkar Akram, founder, sole director and sole shareholder of the opponent. I note the following points from this evidence:

- On 15 November 2013, the opponent acquired the unregistered trade mark rights and goodwill existing in the GET JUICED brand including the GET JUICED name and logo mark as well as many other assets of Get Juiced Limited. This was by way of a Sales and Purchase Agreement, the details of which are considered confidential and not filed in the proceedings (although, at Exhibit GIP1, Mr Price provides copies of the cover sheet and signature page of the agreement). Mr Price has reviewed this agreement and confirms it was entered into on 15 November 2013 and consideration was paid by the opponent. The agreement included the opponent acquiring the exclusive right to represent itself as carrying on the business of Get Juiced Limited under the GET JUICED name and also acquiring the unregistered trade mark rights and goodwill existing in the GET JUICED mark and the logo mark;
- Mr Price recounts a conversation he had with a Mr Dylan Short, the sole director and shareholder of the applicant who called him on 9 December 2013. He states that Mr Short claimed that he had looked at buying the Get Juiced business and that he had spoken to Metis Partners. It is stated that Mr Short further indicated that he had formed the view that there were no assets to purchase and on discovering that the name was not registered as a trade mark, he had filed an application for the GET JUICED name;
- Mr Price provides, at Exhibit GIP6, a letter from Mr Nat Baldwin of Metis Partners to Mr Price that sets out the contact Metis Partners had with Mr Short during the time that it was advertising the sale of Get Juiced Limited's assets. This states that Mr Short first contacted him on 16 August 2013. In response, Mr Baldwin sent a letter, by email, the same day to Mr Short setting out the key information regarding the sale of Get Juiced Limited's assets. This together with an email confirmation of receipt from Mr Short is attached to Mr Baldwin's letter. Further, stock information was provided to him on 19 August 2013, at his request, and on the same day he made a request to view the premises on 22 August 2013, but failed to attend.
- Following the filing of the contested application on 17 August 2013, Metis Partners wrote to Mr Short requesting a discussion regarding what it considered to be a spurious trade mark application. He responded on 27 August 2013 as follows:
 

“We discussed the current position which is that the trademark of “Get Juiced” is dead and has not been extended by Get Juiced Ltd which is now in liquidation and I believe you acknowledge this.

I have taken advice from our IP lawyers who have advised that there is nothing preventing us from applying for the trademark. We will therefore be proceeding with our application.”

- In the telephone conversation of 9 December 2013, Mr Price also informed Mr Short that the opponent would consider purchasing his application in order to resolve the matter. It is stated that Mr Short indicated that he would sell the application, but not for cost. He subsequently sent an email offering to sell the application, together with a related Community Trade Mark for £20,000;
- At Exhibit ZA1 of Mr Akram’s witness statement is a copy of the Business Sale Memorandum produced by the Provisional Liquidator that details the assets of Get Juiced Limited for sale (including the “Brand”). The following information is provided about the nature and scale of Get Juiced Limited’s business:
  - It is described as a provider of “...natural, ....., fresh fruit juice and smoothie products”;
  - Since 2012, the company achieved success with two major UK supermarkets, *Aldi* and *Asda*;
  - It also provided its products to hotels, cocktail bars and restaurants;
  - It originated from a coffee shop in St. Andrews and it traded from four units near Stirling in Scotland since 2003 and Get Juiced Limited was incorporated on 15 October 2003 (see Exhibit ZA2 to Mr Akram’s statement that consists of a print out from Companies House);
  - It produced one million litres of juice per year and it had twenty one employees;
  - Income for the period April to June 2013 was a little over £290,000;
- The same memorandum included a page entitled “Intellectual Property Assets Highlights” and includes the following information:
  - The “Get Juiced” product range is explained and consists of a range of fruit juices and fruit smoothies;
  - The opponent’s logo mark is shown prominently and the following representation of Get Juiced Limited’s goods is shown:



- The “Get Juiced” brand has been in existence for over fifteen years, but experienced rapid growth in 2012 and 2013 when it began providing its goods to over 50 *Asda* stores and over 400 *Aldi* stores;
  - “The brand has an extremely strong reputation amongst customers and brand awareness amongst consumers has been built through the presence of branded products in *Asda* stores”;
  - “Get Juiced” appeared on BBC televised news in 2012 and also in national publications such as *The Scotsman*, *The Daily Record* and *The Herald Scotland*;
  - The “Get Juiced” brand was also promoted through attendance at ScotHot and the Royal Highland Show for “the last two years”;
  - The logo mark was designed in mid-2011;
  - It is also stated that it owned rights in a number of unregistered marks including the two relied upon in these proceedings
- Get Juiced Limited invested in new technology in 2012 and 2013 allowing it to supply its products to customers throughout the UK. This led to an increase in production from about 2000 litres a week to 5,000 litres or more in Summer 2012;
  - During 2012 and 2013, Get Juiced Limited achieved a number of awards such as Great Taste Gold Awards at the Guild of Fine Foods in both 2012 and 2013. Certificates relating to its awards and memberships to trade associations are provided at Mr Akram’s Exhibit ZA8;

## DECISION

10) Section 5(4)(a) states:

“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.”

11) Halsbury’s Laws of England (4th Edition) Vol. 48 (1995 reissue) at paragraph 165 provides the following analysis of the law of passing off. The analysis is based on guidance given in the speeches in the House of Lords in *Reckitt & Colman Products Ltd v. Borden Inc.* [1990] R.P.C. 341 and *Erven Warnink BV v. J. Townend & Sons (Hull) Ltd* [1979] AC 731. It is (with footnotes omitted) as follows:

“The necessary elements of the action for passing off have been restated by the House of Lords as being three in number:

(1) that the plaintiff’s 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 defendant (whether or not intentional) leading or likely to lead the public to believe that the goods or services offered by the defendant are goods or services of the plaintiff; and

(3) that the plaintiff has suffered or is likely to suffer damage as a result of the erroneous belief engendered by the defendant’s misrepresentation.

The restatement of the elements of passing off in the form of this classical trinity has been preferred as providing greater assistance in analysis and decision than the formulation of the elements of the action previously expressed by the House. This latest statement, like the House’s previous statement, should not, however, be treated as akin to a statutory definition or as if the words used by the House constitute an exhaustive, literal definition of passing off, and in particular should not be used to exclude from the ambit of the tort recognised forms of the action for passing off which were not under consideration on the facts before the House.”

12) Further guidance is given in paragraphs 184 to 188 of the same volume with regard to establishing the likelihood of deception or confusion. In paragraph 184 it is noted (with footnotes omitted) that:

“To establish a likelihood of deception or confusion in an action for passing off where there has been no direct misrepresentation generally requires the presence of two factual elements:

(1) that a name, mark or other distinctive feature used by the plaintiff has acquired a reputation among a relevant class of persons; and

(2) that members of that class will mistakenly infer from the defendant’s use of a name, mark or other feature which is the same or sufficiently similar that the defendant’s goods or business are from the same source or are connected.

While it is helpful to think of these two factual elements as successive hurdles which the plaintiff must surmount, consideration of these two aspects cannot be completely separated from each other, as whether deception or confusion is likely is ultimately a single question of fact.

In arriving at the conclusion of fact as to whether deception or confusion is likely, the court will have regard to:

(a) the nature and extent of the reputation relied upon;

(b) the closeness or otherwise of the respective fields of activity in which the plaintiff and the defendant carry on business;

(c) the similarity of the mark, name etc. used by the defendant to that of the plaintiff;

(d) the manner in which the defendant makes use of the name, mark etc. complained of and collateral factors; and

(e) the manner in which the particular trade is carried on, the class of persons who it is alleged is likely to be deceived and all other surrounding circumstances.”

In assessing whether confusion or deception is likely, the court attaches importance to the question whether the defendant can be shown to have acted with a fraudulent intent, although a fraudulent intent is not a necessary part of the cause of action.”

13) The first part of the enquiry is whether the opponent owns goodwill attached to the word mark GET JUICED and the logo mark. In *Inland Revenue Commissioners v Muller & Co’s Margarine Ltd* [1901] AC 217 (HOL), it was stated:

“What is goodwill? It is a thing very easy to describe, very difficult to define. It is the benefit and advantage of the good name, reputation and connection of a business. It is the attractive force which brings in custom. It is the one thing which distinguishes an old-established business from a new business at its first start.”

14) The opponent has denied the applicant’s claims that, first, there has been insufficient use in order to found a claim for passing off and, second, that it is not the rightful holder of any goodwill attaching to such use. Details of the scale of the previous proprietor’s business are provided at Exhibit ZA1 of Mr Akram’s witness statement. This takes the form of the provisional liquidator’s Business Sales Memorandum but I see no reason to doubt the accuracy of such a document. It is clear from this document that Get Juiced Limited had an established business since 2003 providing fruit juices and smoothie products to the hospitality business. Up until 2012, this appears to have been on a modest basis, but then it secured orders to supply *Aldi* and *Asda* supermarkets. This led to a marked increase in its business, expanding to produce 5000 litres of juice per week and generating an income of over £290,000 in the three months to June 2013. The same document illustrates the packaging used and the opponent’s logo mark features prominently in all of these. In light of this, I conclude that the logo mark relied upon by the opponent identified goodwill developed by Get Juiced Limited.

15) The second question is whether the opponent is the rightful holder of that goodwill. It is stated on behalf of the opponent that it acquired various assets, including the goodwill existing in the GET JUICED brand (itself including the name GET JUICED and the logo mark), of Get Juiced Limited by way of a Sales and Purchase Agreement dated 15 November 2013. There is no doubt that goodwill is personal property that can be passed on provided that it remains in the same ownership as the business to which it relates; see “The Law of Passing-Off” (4<sup>th</sup> Edition), section 3-192.

16) Only the cover sheet and signature page of the agreement is exhibited, because of claimed confidentiality issues: the rest of the agreement is not in evidence. However, Mr Price states that he has reviewed the agreement and confirms that consideration was paid by the opponent and that the agreement included the opponent acquiring the exclusive right to represent itself as carrying on the business of Get Juiced Limited under the GET JUICED name, acquiring the goodwill and the associated unregistered GET JUICED mark and the logo mark. In the absence of any challenge to this evidence by the applicant, I accept that it demonstrates that the opponent acquired the necessary goodwill on 15 November 2013. Whilst this is after the relevant date in these proceedings, it demonstrates that the opponent is the successor in title of the goodwill and consequently in a position to oppose the application on the basis of Section 5(4)(a).

17) Having concluded that the opponent owns the requisite goodwill, I must consider whether use of the applied for mark would result in misrepresentation and damage. The test for misrepresentation was set out in *Neutrogena Corporation and Another v Golden Limited and Another*, [1996] RPC 473, where Morritt L.J. stated:

“There is no dispute as to what the correct legal principle is. As stated by *Lord Oliver of Aylmerton in Reckitt & Colman Products Ltd. v. Borden Inc.* [1990] R.P.C. 341 at page 407 the question on the issue of deception or confusion is

“is it, on a balance of probabilities, likely that, if the appellants are not restrained as they have been, a substantial number of members of the public will be misled into purchasing the defendants' [product] in the belief that it is the respondents'[product]”

The same proposition is stated in Halsbury's Laws of England 4th Edition Vol.48 para 148 . The necessity for a substantial number is brought out also in *Saville Perfumery Ltd. v. June Perfect Ltd.* (1941) 58 R.P.C. 147 at page 175 ; and *Re Smith Hayden's Application* (1945) 63 R.P.C. 97 at page 101.”

And later in the same judgment:

“... for my part, I think that references, in this context, to “more than *de minimis*” and “above a trivial level” are best avoided notwithstanding this court's reference to the former in *University of London v. American University of London* (unreported 12 November 1993) . It seems to me that such expressions are open to misinterpretation for they do not necessarily connote the opposite of substantial and their use may be thought to reverse the proper emphasis and concentrate on the quantitative to the exclusion of the qualitative aspect of confusion.”

18) In the current case, I have found that the opponent has the requisite goodwill identified by the logo mark. This mark contains the identical word elements to the applicant's mark and they only differ in that the opponent's mark is in a slightly informal font, reminiscent of being neatly handwritten, has a dot over each upright of the letter “u”, the whole reminiscent of a smiley face and a small leaf device replacing the dot over the letter “i”. None of these differences detract from the fact that the logo mark is essentially a GET JUICED mark with minor embellishments. I conclude that there is a very high level of similarity between the marks. Further, the respective marks are for goods in the same field of activity.

19) Taking all of this into account, I have little hesitation in concluding that use of the applicant's mark would result in misrepresentation leading to damage, where

the public would believe that the goods offered by the applicant are the goods of the opponent.

20) My finding above effectively settles the issue before me, but I will go on to comment, briefly, upon the claim of bad faith.

### **Section 3(6)**

21) Section 3(6) of the Act states:

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

22) The law in relation to section 3(6) of the Act (“bad faith”) was summarised by Arnold J. in *Red Bull GmbH v Sun Mark Limited and Sea Air & Land Forwarding Limited* [2012] EWHC 1929 (Ch):

“130. A number of general principles concerning bad faith for the purposes of section 3(6) of the 1994 Act/Article 3(2)(d) of the Directive/Article 52(1)(b) of the Regulation are now fairly well established. (For a helpful discussion of many of these points, see N.M. Dawson, "Bad faith in European trade mark law" [2011] IPQ 229.)

131. First, the relevant date for assessing whether an application to register a trade mark was made in bad faith is the application date: see *Case C- 529/07 Chocoladenfabriken Lindt & Sprüngli AG v Franz Hauswirth GmbH* [2009] ECR I-4893 at [35].

132. Secondly, although the relevant date is the application date, later evidence is relevant if it casts light backwards on the position as at the application date: see *Hotel Cipriani Srl v Cipriani (Grosvenor Street) Ltd* [2008] EWHC 3032 (Ch), [2009] RPC 9 at [167] and cf. *Case C-259/02 La Mer Technology Inc v Laboratoires Goemar SA* [2004] ECR I-1159 at [31] and *Case C-192/03 Alcon Inc v OHIM* [2004] ECR I-8993 at [41].

133. Thirdly, a person is presumed to have acted in good faith unless the contrary is proved. An allegation of bad faith is a serious allegation which must be distinctly proved. The standard of proof is on the balance of probabilities but cogent evidence is required due to the seriousness of the allegation. It is not enough to prove facts which are also consistent with good faith: see *BRUTT Trade Marks* [2007] RPC 19 at [29], *von Rossum v Heinrich Mack Nachf. GmbH & Co KG* (Case R 336/207-2, OHIM Second Board of Appeal, 13 November 2007) at [22] and *Funke Kunststoffe GmbH v Astral Property Pty Ltd* (Case R 1621/2006-4, OHIM Fourth Board of Appeal, 21 December 2009) at [22].

134. Fourthly, bad faith includes not only dishonesty, but 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": see *Gromax Plasticulture Ltd v Don & Low Nonwovens Ltd* [1999] RPC 367 at 379 and *DAAWAT Trade Mark* (Case C000659037/1, OHIM Cancellation Division, 28 June 2004) at [8].

135. Fifthly, section 3(6) of the 1994 Act, Article 3(2)(d) of the Directive and Article 52(1)(b) of the Regulation are intended to prevent abuse of the trade mark system: see *Melly's Trade Mark Application* [2008] RPC 20 at [51] and *CHOOSI Trade Mark* (Case R 633/2007-2, OHIM Second Board of Appeal, 29 February 2008) at [21]. As the case law makes clear, there are two main classes of abuse. The first concerns abuse vis-à-vis the relevant office, for example where the applicant knowingly supplies untrue or misleading information in support of his application; and the second concerns abuse vis-à-vis third parties: see *Cipriani* at [185].

136. Sixthly, in order to determine whether the applicant acted in bad faith, the tribunal must make an overall assessment, taking into account all the factors relevant to the particular case: see *Lindt v Hauswirth* at [37].

137. Seventhly, the tribunal must first ascertain what the defendant knew about the matters in question and then decide whether, in the light of that knowledge, the defendant's conduct is dishonest (or otherwise falls short of the standards of acceptable commercial behaviour) judged by ordinary standards of honest people. The applicant's own standards of honesty (or acceptable commercial behaviour) are irrelevant to the enquiry: see *AJIT WEEKLY Trade Mark* [2006] RPC 25 at [35]-[41], *GERSON Trade Mark* (Case R 916/2004-1, OHIM First Board of Appeal, 4 June 2009) at [53] and *Campbell v Hughes* [2011] RPC 21 at [36].

138. Eighthly, consideration must be given to the applicant's intention. As the CJEU stated in *Lindt v Hauswirth*:

"41. ... in order to determine whether there was bad faith, consideration must also be given to the applicant's intention at the time when he files the application for registration.

42. It must be observed in that regard that, as the Advocate General states in point 58 of her Opinion, the applicant's intention at the relevant time is a subjective factor which must be determined by reference to the objective circumstances of the particular case.

43. Accordingly, the intention to prevent a third party from marketing a product may, in certain circumstances, be an element of bad faith on the part of the applicant.

44. That is in particular the case when it becomes apparent, subsequently, that the applicant applied for registration of a sign as a Community trade mark without intending to use it, his sole objective being to prevent a third party from entering the market.

45. In such a case, the mark does not fulfil its essential function, namely that of ensuring that the consumer or end-user can identify the origin of the product or service concerned by allowing him to distinguish that product or service from those of different origin, without any confusion (see, *inter alia*, Joined Cases C-456/01 P and C-457/01 P *Henkel v OHIM* [2004] ECR I-5089, paragraph 48)."

23) Mr Price, in his second witness statement, claims it is clear that as of the date of filing of the contested application, the applicant knew of the goodwill and reputation that existed in the GET JUICED brand and also knew that the intellectual property rights of Get Juiced Limited were for sale. He further claims that the application was a deliberate attempt dishonestly to acquire property of another or to undermine the Provisional Liquidator in realising the highest possible value of the assets of Get Juiced Limited.

24) In its counterstatement, the applicant denies that the application was filed in bad faith. It claims that it only became aware of the sale after a discussion with a third party after the filing date of 17 August 2013. However, the opponent exhibits a letter from Metis Partners where it is stated that Mr Dylan Short, the sole director of the applicant first contacted them on 16 August 2013 and that stock information was sent to him on the 19 August 2013. Mr Short apparently made an appointment to view Get Juiced Limited's premises on the 22 August 2013, but failed to attend. Further, the letter states that Metis Partners wrote to Mr Short following the applicant's filing of the contested application expressing concerns over the apparent spurious application. Mr Short responded on 27 August 2013 stating that he had taken advice from his IP lawyers and was advised that there was nothing preventing the applicant applying to register the mark.

25) There is documentary evidence that Mr Short received detailed of the sale of Get Juiced Limited's assets the day before the filing date of the contested application. This has not been challenged by the applicant. In light of this, it is my view that it is likely accurately to reflect the contact between Mr Short and Metis Partners. As such, contrary to the applicant's counterstatement, it was aware of the sale of Get Juiced Limited's assets before filing its application as shown by Mr Short's conversation with Metis Partners the day before the application date. Further, Mr Short's letter to Metis Partners on 27 August 2013 suggests that, despite his knowledge of the existing goodwill identified by the logo mark, he proceeded with an application to register the mark.

26) In light of the above, I conclude that the application was made in bad faith.

27) It is important to note that to bring an opposition based upon Section 3(6) of the Act, it is not necessary that the opponent has an earlier right. Consequently, even if I am wrong regarding whether the opponent was able to bring an opposition based upon Section 5(4)(a) of the Act, despite not being the owner of the goodwill at the date of application of the contested mark, its opposition will still succeed based upon the Section 3(6) grounds.

## **COSTS**

28) The opponent has been successful and is entitled to a contribution towards its costs, according to the published scale in Tribunal Practice Notice 4/2007. I take account that only the opponent filed evidence and also that it filed written submissions in lieu of a hearing. I award costs on the following basis:

Preparing a statement and considering the counterstatement	£300
Opposition fee	£200
Evidence	£500
Written submissions	£200
<b>Total:</b>	<b>£1200</b>

29) I order C Beverages Ltd to pay Resource Medical (UK) Ltd the sum of £1200 which, in the absence of an appeal, should be paid within seven days of the expiry of the appeal period.

**Dated this 5th day of December 2014**

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