

O-797-18

TRADE MARKS ACT 1994

**IN THE MATTER OF
INTERNATIONAL REGISTRATION NO. 1385791
DESIGNATING THE UK FOR THE MARK:**



**IN THE NAME OF
MONT ADVENTURE EQUIPMENT PTY LIMITED
FOR GOODS IN CLASSES 18, 22, 24 and 25**

AND

**IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 60000880 BY
AA TEXTILES LTD**

BACKGROUND AND PLEADINGS

1) International Registration No. 1385791 was registered with designation of the UK on 27 November 2017 with a priority date of 10 November 2017 by Mont Adventure Equipment Pty Limited (“the Applicant”) for the following mark (“the opposed mark”)



The date of publication in the Trade Marks Journal was 11 May 2018. The mark was designated for goods and services in classes 9, 35, 41 and 42, but only those in Class 25, as shown below, are opposed in these proceedings¹:

Technical clothing, footwear and headgear for adventure sport and extreme adventure sport pursuits being hiking, climbing, mountaineering, adventure travel, trekking, skiing and back country and wilderness adventure.

2) The application is opposed in respect of the above goods by AA Textiles Ltd (“the Opponent”) under section 5(2)(b) of the Trade Marks Act 1994 (“the Act”), for the purposes of which it relies upon UK trade mark registration no. 3191303, which was applied for on 14 October 2016 and completed its registration process on 27 January 2017, for the following mark and goods:

Mont Noir

Class 25: Clothing, Garments, Head wear, Footwear, Socks, Boxer Shorts, Underwear, Outerwear, Sportswear, Lingerie, Nightwear, Lounge wear, Thermals, Base Layers; Clothing for fishermen; Clothing for cyclists; Clothing for sports; Clothing for babies; Clothing for infants; Clothing for children.

¹ The Applicant’s specification was originally broader, but it was decided at a case management conference that this case would proceed on the basis of the restricted specification shown here, this restricted specification having been confirmed by WIPO – see paragraph 7 below.

3) The significance of the above dates is that (1) AA Textiles Ltd's mark ("the earlier mark") constitutes an earlier mark in accordance with section 6 of the Act, and (2) it is not subject to the proof of use conditions contained in section 6A of the Act, its registration procedure having been completed less than five years before the application for protection in the UK of the Applicant's mark was published in the Trade Marks Journal.

4) The Opponent claims that the mark applied for is similar to the earlier mark and that the goods of the competing marks are identical or similar, so that there is a likelihood of confusion. In its counterstatement the Applicant denies the grounds of opposition. The Applicant is represented in these proceedings by Brookes IP. The Opponent is not professionally represented.

5) Rules 20(1)-(3) of the Trade Marks Rules (the provisions which provide for the filing of evidence) do not apply to fast track oppositions such as the present proceedings, but Rule 20(4) does. It reads:

"(4) The registrar may, at any time, give leave to either party to file evidence upon such terms as the registrar thinks fit."

The net effect of these provisions is that parties are required to seek leave in order to file evidence (other than proof of use evidence, which was not required in this case). In a letter of 10 August 2018 contending that MONT is of limited or no distinctive character, and asserting that there are a number earlier rights which include the word MONT with which the Opponent was already co-existing, the Applicant sought leave to file evidence. In a letter of 14 August 2018 the Registry informed the Applicant of its preliminary view that the request to file evidence should be refused. This was on the basis that the Registry considered that the proposed evidence would make no material difference in this case, as it would be of no relevance to the notional and objective assessment to be made regarding the likelihood of confusion between the respective marks and their corresponding goods as filed. In a letter of 16 August 2018 the Applicant requested a hearing to challenge the Registry's preliminary view, and a case management conference was accordingly held on 2 October 2018.

6) The direction given as a result of the case management conference was that the filing of evidence concerning the limited distinctiveness of the shared word element 'mont' would be unnecessary, as the hearing officer would already be considering issues of distinctiveness during a visual, aural and conceptual comparison of the marks in the course of the substantive decision. Furthermore, any evidence regarding the co-existence of the opponent's mark with other 'mont' marks on the register was not relevant, as the General Court had already dismissed this type of approach in *Zero Industry Sri v OHIM*, Case T-400/06, stating that "the mere fact that a number of trademarks relating to the goods at issue contain the word 'zero' [i.e. the shared element] is not enough to establish that the distinctive character of that element has been weakened".

7) It was also directed at the case management conference that as the Applicant's restricted specification of goods in class 25 had now been confirmed by WIPO, the case would proceed on the basis of those restricted goods as set out in the Applicant's counter statement dated 10 August 2018, namely: *technical clothing, footwear and headgear for adventure sport and extreme adventure sport pursuits being hiking, climbing, mountaineering, adventure travel, trekking, skiing and back country and wilderness adventure.*

8) Rule 62(5) (as amended) of the Trade Marks Rules 2008 (as amended by the Trade Marks (Fast Track Opposition) (Amendment) Rules 2013) ("the Rules") provides that arguments in fast track proceedings shall be heard orally only if (1) the Office requests it or (2) either party to the proceedings requests it and the registrar considers that oral proceedings are necessary to deal with the case justly and at proportionate cost. Otherwise written arguments will be taken. Neither side requested a hearing. The Applicant filed written submissions in lieu of a hearing. I therefore give this decision after a careful review of all the papers before me.

Section 5(2)(b)

9) Section 5(2)(b) of the Act reads as follows:

"5(2) A trade mark shall not be registered if because – [...]"

(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”.

10) The following principles are gleaned from the decisions of the Court of Justice of the European Union (“CJEU”) in *Sabel BV v Puma AG*, Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, *Matratzen Concord GmbH v OHIM*, Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C-120/04, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P and *Bimbo SA v OHIM*, Case C-591/12P:

(a) The likelihood of confusion must be appreciated globally, taking account of all relevant factors;

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

(e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;

(f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

(g) a lesser degree of similarity between the goods or services may be offset by a great degree of similarity between the marks, and vice versa;

(h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has been made of it;

(i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;

(j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense;

(k) if the association between the marks creates a risk that the public will wrongly believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

Comparison of the goods

11) In assessing whether there is a likelihood of confusion I must make my comparison of the goods on the basis of the principles laid down in the case law. In the judgment of the CJEU in *Canon*, Case C-39/97, the court stated at paragraph 23 of its judgment that:

“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, their intended purpose and their method of use and whether they are in competition with each other or are complementary”.

12) When it comes to understanding what terms used in specifications mean and cover, the guidance in the case-law is to the effect that “in construing a word used in a trade mark specification, one is concerned with how the product is, as a practical matter, regarded for the purposes of the trade”² and that I must also bear in mind that words should be given their natural meaning within the context in which they are used; they cannot be given an unnaturally narrow meaning³.

13) In *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T- 133/05 (“*Meric*”), the General Court stated that:

“29. In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by the trade mark application (Case T-388/00 *Institut für Lernsysteme v OHIM- Educational Services (ELS)* [2002] ECR II-4301, paragraph 53) or where the goods designated by the trade mark application are included in a more general category designated by the earlier mark (Case T-104/01 *Oberhauser v OHIM — Petit Liberto (Fifties)* [2002] ECR II-4359, paragraphs 32 and 33; Case T-110/01 *Vedial v OHIM – France Distribution (HUBERT)* [2002] ECR II-5275, paragraphs 43 and 44; and Case T-10/03 *Koubi v OHIM — Flabesa (CONFORFLEX)* [2004] ECR II-719, paragraphs 41 and 42”.

14) In accordance with the guidance in *Meric* the goods covered by the Applicant’s *technical clothing, footwear and headgear for adventure sport and extreme adventure sport pursuits being hiking, climbing, mountaineering, adventure travel, trekking, skiing*

²*British Sugar Plc v James Robertson & Sons Limited (Treat)* [1996] R.P.C. 281

³*Beautimatic International Ltd v Mitchell International Pharmaceuticals Ltd and Another* [2000] FSR 267

and back country and wilderness adventure clearly fall within the ambit of the Opponent's *clothing, footwear and head wear* respectively. The goods are identical.

The average consumer and the purchasing process

15) The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purpose of assessing the likelihood of confusion, it must be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods or services in question: *Lloyd Schuhfabrik Meyer, Case C-342/97*. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J. described the average consumer in these terms:

“60. The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The words “average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median.”

16) The average consumer of clothing, footwear and headgear is normally a member of the general public. The goods may be purchased on the high street, online or by mail order. The selection process for the goods is therefore primarily visual⁴, though I do not discount the fact that there may be an aural element, given that, for example, some articles may be selected with the assistance of a sales assistant. The attention paid may vary with the type of clothing sought, but the level of attention will at least be reasonable.

17) The Applicant submits that the average consumer of “*such specialist goods [i.e. the technical clothing, footwear and headgear for adventure sport and extreme adventure sport pursuits covered by the Applicant’s specification] would have a higher*

⁴ See *New Look Ltd v OHIM*, Joined cases T-117/03 to T-119/03 and T-171/03 at paragraph 53.

than average degree of attention as such goods typically carry a premium price. Technical clothing is more expensive than standard clothing and the technical features of the clothing would be of particular interest to the relevant consumer". It may well be that such items of technical clothing may generally be more expensive than standard clothing but I have no evidence about this. I accept, however, that, when choosing such technical clothing, in addition to the consideration given to such factors as size and fit the consumer will also give consideration to the technical features relating to the particular requirements which these goods will need to meet, leading to a somewhat higher than average level of care and attention in their selection.

Comparison of the marks

18) It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

“.....it is necessary to ascertain, in each individual case, the overall impression made on the target public by the sign for which registration is sought, by means of, inter alia, an analysis of the components of a sign and of their relative weight in the perception of the target public, and then, in the light of that overall impression and all factors relevant to the circumstances of the case, to assess the likelihood of confusion.”

19) It would be wrong, therefore, to dissect the trade marks artificially, although it is necessary to take into account the distinctive and dominant components of the marks and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions created by the marks. The marks to be compared are shown below:

The opposed mark	The earlier mark
	<p data-bbox="922 459 1248 526" style="text-align: center;">Mont Noir</p>

20) The opposed mark consists of the word MONT in block capitals slanting slightly to the right, sweeping over which from the left is a simple figure forming an apex above the word. The word MONT, not being descriptive, is averagely distinctive for clothing, though allusive, and thus somewhat more weakly distinctive, when considered in relation to adventure sports clothing by those who know it means “mountain”. The figurative element may also be seen as evocative of a mountain. Though I consider the distinctive weight of the mark to lie predominantly on the word MONT, I find that the figurative element, though simple, also makes a substantial contribution to the overall distinctive character of the mark.

21) The earlier mark consists of the words Mont Noir. The orthographical treatment does not play a role. The words Mont Noir, not being descriptive, are of normal distinctiveness for clothing, but when considered in relation to adventure sports clothing by those who know that they mean “black mountain” the evocative mountain association would tend to weaken its distinctiveness somewhat. Those who don’t know what MONT means will probably not know what NOIR means either, in which case the whole mark will consist of meaningless French words and there would no reason to single out MONT as a separate element. There is no difference in the graphic presentation of the words and neither is more distinctive than the other. The distinctive character of the earlier mark lies in the phrase Mont Noir as a whole.

22) Visually, the word MONT is prominent in both marks, being the first word in the earlier mark. There is a rough rule of thumb in the settled case law that the consumer

normally attaches more importance to the beginnings of word marks. However, this is no more than a rule of thumb. Each case must be considered on its merits. My assessment must take account of the overall impression created by the marks⁵. The earlier mark adds the further word NOIR, which is unlike anything in the contested mark, and doubles the length and number of words in comparison with the contested mark. The figurative element of the contested mark has no counterpart in the earlier mark. Overall, there is not more than a medium degree of visual similarity between the marks.

23) The figurative element in the contested mark will not be articulated aurally. Whether pronounced in the English or French manner, the consumer will pronounce the word MONT in the same way in both marks. Whether the word NOIR is pronounced in the French manner or in some other way, it will in any case constitute an additional aural element quite different from MONT. Overall, there is a medium degree of aural similarity between the marks.

24) Conceptually, for those who understand the meaning of the marks, MONT will represent a concept common to both marks, and NOIR will be an element of conceptual difference. Whereas MONT will evoke a mountain at large, MONT NOIR will suggest the name or description of a particular mountain, whether real or imaginary, so that the differing concepts behind the marks are readily distinguishable. Overall, the degree of conceptual similarity lies between low and medium. To those who do not understand their respective meanings there will be no conceptual content in either mark beyond that of having a French appearance.

⁵ Cf. *Spa Monopole, compagnie fermière de Spa SA/NV v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) Case T-438/07*: “23 Admittedly, the consumer normally attaches more importance to the first part of words (Joined Cases T-183/02 and T-184/02 *El Corte Inglés v OHIM – González Cabello and Iberia Líneas Aéreas de España (MUNDICOR)* [2004] ECR II-965, paragraph 81). However, that argument cannot hold in all cases (see judgment of 16 May 2007 in Case T-158/05 *Trek Bicycle v OHIM – Audi (ALL TREK)*, not published in the ECR, paragraph 70 and the case-law cited) and does not, in any event, cast doubt on the principle that the assessment of the similarity of marks must take account of the overall impression created by them.”

The distinctiveness of the earlier mark

25) The degree of distinctiveness of the earlier mark must be assessed. This is because the more distinctive the earlier mark, either on the basis of inherent qualities or because of use made, the greater the likelihood of confusion (see *Sabel BV v. Puma AG*, paragraph 24). In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*, Case C-342/97, the CJEU stated that:

“22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-0000, paragraph 49).

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51).”

26) The Opponent has not claimed that the distinctiveness of its earlier mark has been materially enhanced through use. This leaves the question of inherent distinctive character. The mark is not descriptive. For those to whom it has no meaning it will be of average distinctiveness. For those who appreciate the meaning, the evocative mountain reference will somewhat weaken its distinctive character for the technical

clothing, footwear and headgear for adventure sport and extreme adventure sport pursuits covered by the Applicant's specification.

Likelihood of confusion

27) The factors assessed so far have a degree of interdependency (*Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraph 17), a global assessment of them must be made when determining whether there exists a likelihood of confusion (*Sabel BV v. Puma AG*, paragraph 22). However, there is no scientific formula to apply. It is a matter of considering the relevant factors from the viewpoint of the average consumer and determining whether they are likely to be confused.

28) For the purposes of my assessment I must consider the relevant public consisting of consumers of the type of goods covered by the Applicant's specification, since it is this public which might potentially encounter both marks, and thus for whom the likelihood of confusion must be assessed. I have found that the average consumer of the type of goods covered by the Applicants specification will show a somewhat higher than average level of care and attention in their selection. Though I consider the distinctive weight of the opposed mark to lie predominantly on the word Mont, I have found that the figurative element also makes a substantial contribution to its overall distinctive character. I have found that the distinctive character of the earlier Mark lies in the phrase Mont Noir as a whole. I consider that for the average consumer of the goods at issue, MONT in the Applicant's mark will evoke the idea of mountain at large, whereas MONT NOIR will suggest the name or description of a particular mountain, whether real or imaginary. Although there is a certain amount of conceptual similarity, the differing concepts behind the marks are readily distinguishable.

29) I have found there to be not more than a medium degree of visual and conceptual similarity and a medium degree of aural similarity between the competing marks. To those who do not understand their respective meanings there will be no conceptual content in either mark beyond that of having a French appearance. Bearing in mind my findings on the average consumer, the purchasing process and the degree of distinctive character of the earlier Mark, even taking into account the effect of imperfect recollection and the fact that the competing goods are identical, I find that the

differences between the opposed Mark and the earlier Mark are sufficient to rule out a likelihood that the consumer will directly confuse them, i.e. mistake them for one another. The figurative element in the opposed mark is evocative of a mountain. Nevertheless, I have found it to make a substantial contribution to the overall distinctive character of the mark. I consider that the combination of the word Mont with a significant figurative element in the opposed Mark, by contrast with its combination with another word to form part of a longer phrase in the earlier Mark, means that the consumer will not mistake one mark for the other.

30) However, I must also consider the possibility of indirect confusion, and in this connection it is helpful to bear in mind the observations of Mr Iain Purvis QC, sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc*, Case BL O/375/10 (“L.A. Sugar”), where he noted that:

“Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different from the earlier mark. It therefore requires a mental process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: “The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark” ”.

17. Instances where one may expect the average consumer to reach such a conclusion tend to fall into one or more of three categories:

(a) where the common element is so strikingly distinctive (either inherently or through use) that the average consumer would assume that no-one else but the brand owner would be using it in a trade mark at all. This may apply even

where the other elements of the later mark are quite distinctive in their own right (“26 RED TESCO” would no doubt be such a case).

(b) where the later mark simply adds a non-distinctive element to the earlier mark, of the kind which one would expect to find in a sub-brand or brand extension (terms such as “LITE”, “EXPRESS”, “WORLDWIDE”, “MINI” etc.).

(c) where the earlier mark comprises a number of elements, and a change of one element appears entirely logical and consistent with a brand extension (“FAT FACE” to “BRAT FACE” for example).”

31) I also bear in mind the following observations of Mr James Mellor QC, sitting as the Appointed Person in *Duebros Limited v Heirler Cenovis GmbH*, Case O/547/17, on the passage quoted above:

“... 81.2. Second, in my view it is important to keep in mind the purpose of the whole exercise of a global assessment of a likelihood of confusion, whether direct or indirect. The CJEU has provided a structured approach which can be applied by tribunals across the EU, in order to promote a consistent and uniform approach. Yet the reason why the CJEU has stressed the importance of the ultimate global assessment is, in my view, because it is supposed to emulate what happens in the mind of the average consumer on encountering, for example, the later mark or the mark applied for with an imperfect recollection of the earlier mark in mind. It is not a process of analysis or reasoning, but an impression or instinctive reaction....

.... 81.4. Fourth, I think it is important to stress that a finding of indirect confusion should not be made merely because the two marks share a common element. When Mr Purvis was explaining in more formal terms the sort of mental process involved at the end of his [16], he made it clear that the mental process did not depend on the common element alone: ‘Taking account of the common element in the context of the later mark as a whole.’ [The emphasis is provided by Mr Mellor].

32) I appreciate that the examples given by Mr Purvis in his decision *in L.A. Sugar Limited v By Back Beat Inc* were intended to be illustrative in the context of that case, and not to impose rigid rules. The categories of case where indirect confusion may be found are not closed. Each case must be assessed on its own facts, and my assessment must take account of the overall impression created by the marks. In this case I do not consider that the presence of the word MONT in both the competing marks would lead the average consumer I have identified to conclude that they belong to the same or economically linked undertakings. Although MONT is of average distinctiveness for clothes, the evocation of the mountain concept weakens its distinctive character when considered in relation to adventure sports clothing by those who know it means “mountain”. I think that the most natural reaction would be for the consumer simply to assume that two different producers had chosen to exploit the evocative qualities of a mountain or of a specific mountain respectively with regard to such goods in their own different marks.

33) Those who do not know what MONT means will probably not know what NOIR means either. In this case the whole earlier mark would consist of a meaningless French phrase, and there would be no reason to single out MONT as a separate element. It will simply be seen as a foreign expression (or possibly even name) meaning or designating something different from MONT on its own. Nor do I consider that the words might be seen as made up. Even if they were, however, I do not believe that the consumer would naturally think that a proprietor might seek to extend such a brand by adding to it another made-up word quite unlike it.

34) Accordingly, I conclude that there is no likelihood of either direct or indirect confusion.

Outcome

35) The opposition fails in its entirety.

Costs

36) Awards of costs in fast track opposition proceedings filed after 1 October 2015

are governed by Tribunal Practice Notice (“TPN”) 2 of 2015. The Applicant has been successful and is entitled to a contribution towards its costs. The pleadings of both parties, and the written submissions of the Applicant, were simple and brief. I hereby order AA Textiles Ltd to pay Mont Adventure Equipment Pty Ltd the sum of £350. This sum is calculated as follows:

Preparing a statement and considering the other side’s statement	£150
Preparing written submissions	£200

The above sum should be paid within fourteen days of the expiry of the appeal period or within fourteen days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 12th day of December 2018

Martin Boyle
For the Registrar,
The Comptroller-General