

TRADE MARKS ACT 1994

IN THE MATTER OF:

OPPOSITION No. 90056

IN THE NAME OF MARLOW FOODS LTD

TO APPLICATION No. 2242582A

TO REGISTER A SERIES OF TRADE MARKS

IN CLASSES 9, 13, 16, 18, 21, 25 AND 41

IN THE NAME OF THE SECRETARY TO THE QUORN HUNT

DECISION

1. In December 2004 the Secretary to the Quorn Hunt (**'the Appellant'**) gave notice of appeal under Section 76 of the Trade Marks Act 1994 from the decision of the Registrar's Hearing Officer (Mr. M. Reynolds) issued on 20th October 2004 in relation to Opposition No. 90056 filed in the name of Marlow Foods Limited (**'the Opponent'**) on 7th February 2002.

2. The Hearing Officer's decision is indexed under BL No. 0-319-04. The Opposition was brought in respect of Trade Mark Application No. 2242582A filed in the name of the Appellant on 15th August 2000. The Appellant sought to register the designations **QUORN HUNT** and **THE QUORN HUNT** as a series of 2 trade marks for use in respect of a broad range of goods and services in Classes 9, 13, 16, 18, 21, 25 and

41. The request for registration was refused on relative grounds in relation to all of the specified services and all of the specified goods other than '*stationery, writing and drawing instruments, postcards, photographs, pictures, coasters, posters and instruction manuals*' in Class 16. The Appellant was ordered to pay the Opponent £2,500 in respect of its costs of the Registry proceedings.

3. Under cover of a letter dated 11th February 2005, the Treasury Solicitor's Department was provided with a copy of a co-existence agreement (document reference A04685312/0.1/23 Dec. 2004) in which the Appellant and the Opponent had agreed that the Opposition should be withdrawn so that the Application could, in modified form, proceed to registration without objection from the Opponent.

4. By letter dated 5th April 2005 the Registrar confirmed that he had no objections or concerns in relation to the course of action proposed by the parties.

5. In keeping with the approach adopted in OKO Trade Mark (BL 0/195/03, 23 June 2003) and with the consent of the parties as envisaged by their co-existence agreement I direct and determine that:

- (1) the determinations made by Mr. Reynolds in his decision issued on 20th October 2004 in Opposition No. 90056 stand discharged;
- (2) the Appellant's appeal from those determinations stands withdrawn with no order as to costs;
- (3) Opposition No. 90056 stands withdrawn with no order as to costs;

- (4) Application No. 2242582A stands remitted to the Registrar for further processing in accordance with the provisions of the Act and the Rules and in conformity with the terms of the co-existence agreement that has been put before me.

Geoffrey Hobbs Q.C.

29th April 2005