

O-331-13

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION No. 2616784
BY RIVINGTON FOODS LIMITED
TO REGISTER THE TRADE MARK
CHOCOLATEY RASCAL
IN CLASS 30
AND**

**IN THE MATTER OF OPPOSITION
THERE TO UNDER No. 103684 BY
BETTYS & TAYLORS GROUP LIMITED**

BACKGROUND

1) On 5 April 2012, Rivington Foods Limited (hereinafter the applicant) applied to register the trade mark CHOCOLATEY RASCAL in respect of the following goods in Class 30: Biscuits having a chocolate or chocolate flavoured coating and/or containing chocolate and/or chocolate flavoured ingredients.

2) The application was examined and accepted, and subsequently published for opposition purposes on 25 May 2012 in Trade Marks Journal No.6941.

3) On 15 August 2012 Bettys & Taylors Group Limited (hereinafter the opponent) filed a notice of opposition. The grounds of opposition are in summary:

a) The opponent is the proprietor of the following trade marks:

Mark	Number	Date of application / registration	Class	Specification
YORKSHIRE FAT RASCAL	2058298	29 February 1996 25 October 1996	30	Biscuits, cakes and confectionery.
LITTLE RASCAL	2153415	12 December 1997 16 June 2000	30	Biscuits; cakes.
FAT RASCAL	2486947	08 May 2008 03 October 2008	30	Fruit scones.
LITTLE RASCAL	2534997	21 December 2009 09 April 2010	30	Fruit scones; cakes; bakery goods; chocolate cakes; cakes with chocolate chunks; baked dough products; muffins; cookies; gateaux; biscuits; scones; teacakes; buns; pastries; confectionery.

b) The opponent contends that the mark in suit is confusingly similar to its registered trade marks, which form a family of marks. It states that the goods applied for in the mark in suit are similar or identical to those for which its marks are registered. The opponent contends that the term "RASCAL" is synonymous with the opponent and with their products and as such there will be confusion in the marketplace if the mark in suit, which consists only of the word "RASCAL" in conjunction with a wholly descriptive word, is allowed to become registered and used. The mark in suit therefore offends against Section 5(2)(b) of the Act.

4) On 7 November 2012, the applicant filed a counterstatement denying all the grounds. The applicant states that it could find no evidence that the term RASCAL was synonymous with the opponent. The applicant states that as the term FAT RASCAL is a generic term for a soft rock cake similar to a scone originating from Yorkshire. The opponent does offer a fruit scone under the mark BETTYS FAT RASCAL. The applicant also contends that the only use of the term LITTLE RASCAL by the opponent is on a children's menu for a cake or biscuit. The applicant states that the term LITTLE

RASCAL(s) is a generic term for a type of Swiss butter cookie with raspberry jam in the middle, a festive treat in Switzerland and Germany known as “Spitzbuben” where the name means “little rascals”. They put the opponent to strict proof of use of its marks 2058298 and 2153415.

5) Both sides filed evidence. Both parties seek an award of costs in their favour. The matter came to be heard on 6 August 2013 when the opponent was represented by Ms Berkeley of Counsel instructed by Messrs Eversheds LLP; the applicant was not represented and did not provide written submissions.

OPPONENT’S EVIDENCE

6) The opponent filed a witness statement, dated 10 January 2013 by Mary Godfrey the Creative and Communications Director of the opponent company, a position she has held since 2009. She states that in about 1983 the opponent developed a unique type of bakery product which it sold under the names FAT RASCAL (FR) and YORKSHIRE FAT RASCAL (YFR). The item was (and still is) a speciality, large fruit bakery product which features a distinctive decorative face; that is, it is decorated with cherries which depict eyes and almonds for the teeth. These items are still offered in the six cafes/stores owned by the opponent as well as through its website. She states that the FR mark is often used with the prefix YORKSHIRE. They have developed a range of FR pottery which was introduced in 2007 and has average sales of approximately £25,000 per annum during the period 2007-2012. Ms Godfrey states that the mark LITTLE RASCAL (LR) has been used since 1999 on a seasonal variation of the FR and includes chocolate pieces and candied orange peel. It is sold in the cafes/stores and also online. She provides sales figures which relate to all RASCAL products and show sales in the cafes/stores and online of just under £3million in the period 2007-2012 inclusive. She also provides the following exhibits:

- Re: **YFR**: A paper bag, undated. A menu from Bettys cafe, dated 2012 which offers a YFR (hot with butter) for £3.95; a 2013 point of sale menu which shows a YFR for £1.90; copies of press articles which mention the YFR dated 2007 (*Telegraph*), 2011 (*Ryan Air magazine*) and July 2012 (*Sunday Mirror*).
- Re: **FR**: Advent editions of FR (different spices etc) advertised in 2007 & 2008; mail order sheets offering a box of four FRs dated 2008 – 2012 (at least one for each year); press articles which mention the FR dated 2007 (*Active Life Magazine*), August 2007 (*Woman’s Weekly*), 2008 (*Independent*), 2010 (*Independent*), June 2011 (*Woman’s Weekly*), July 2011 (*BBC Good Food*), June 2012 (*Sunday Express*), and numerous others during the period 2007-2012 (exhibits 23-56).
- RE: **LR**: Point of sale material dated 2008 offering LR for £1.15; Menu dated 2009 £1.35; mail order catalogue dated July 2009.

APPLICANT'S EVIDENCE

7) The applicant filed a witness statement, dated 11 March 2013, by Michael Freeman the applicant's Trade Mark Attorney. He states that he carried out an internet search in order to ascertain whether the terms FAT RASCAL(S) and LITTLE RASCAL(S) are generic or descriptive of biscuits, cakes or similar food products. He states that from his research he believes that the terms are generic or descriptive of such goods. At exhibit MF he provides the results of his internet searches.

- Two pages from the BBC website, both have a recipe for "Fat rascals". Neither page is dated, one contains the statement: "These buns originate from Yorkshire and have been made since Elizabethan times."
- A page from an Australian website, this has a recipe for "Yorkshire fat rascals". It is dated 11 March 2013.
- A page from a foreign website, this contains references to supporters sending \$9.99, and an advertisement in a foreign language. Under the heading "Fat Rascals Recipe from England" it states "This is a traditional English recipe (from Yorkshire) for a classic tea-time accompaniment of a fruited and spiced batter made with milk that half way between a sc[the print disappears at this point] that's finished with an egg glaze, glace cherries and blanched nuts before being oven baked. This is a classic Yorkshire recipe for a tea-time treat that's something like a cross between a scone and a rock cake (but with much more fruit)." It is dated 11 March 2013.
- This is a posting by "Wakey lass Lisa" and is a recipe for "Yorkshire Fat Rascals". The page carries a link to Bettys of York Tea Rooms Fat Rascals." It is dated 9 June 2009. The page has a conversion table into US weights.
- A page from The Great British Cookbook dated 11 March 2013 which provides a recipe for "Fat Rascals" and which states "Fat Rascals are round domed teacakes with a rich brown crust and made with currants and candied peel. They are closely associated with the Cleveland area on the borders of County Durham and Yorkshire. The origin of the name is unknown, but has been in use since at least the mid-nineteenth century."
- Another page from the BBC website with a recipe for "Fat Rascals". This is undated.
- A recipe posted by Deneece Gursky from Miami which has a recipe for "Spitzbuban German "Little Rascals" Cookies. It is undated.
- A recipe posted on Mount Holyoke College website which from the wording used ie "jelly" instead of jam, I take to be of American origin. This is undated and provides a recipe for Spitzbuben "Little Rascals".

- A page with the heading “bake affairs” which offers a recipe for “SPITZBUBEN OR LITTLE RASCALS”. However, as the rest of the page is unreadable it is difficult to comment. It does not appear to be dated.
- A page from Cooks.com which has a recipe for “Little Rascals”. The instructions show the oven heat only in Fahrenheit terms, whereas it is normal in the UK to show both Centigrade and Fahrenheit (see earlier BBC recipes). This page is dated 11 March 2013.

OPPONENT’S EVIDENCE IN REPLY

8) The opponent filed a second witness statement, dated 22 April 2013, by Mary Godfrey. Her job title has changed but she retains responsibility for the opponent’s trade mark portfolio. She points out that one of the BBC pages exhibited by the applicant was from a page linked to the Hairy Bikers, who did a programme from Bettys cafe in York where they sampled YFRs. It is not surprising therefore that they have put a recipe for these on their BBC webpage. At exhibit MG2 she provides copies of an internet search carried out by the opponent’s solicitors using the Google search engine for the terms “FAT RASCAL”, “YORKSHIRE FAT RASCAL” and “LITTLE RASCAL”. Of the first eleven links to FR, ten are linked to the opponent with the exception being a BBC page with a recipe from James Martin (as shown in the applicant’s evidence). A search under YFR brings up many of the same pages but even those which are different are linked to the opponent. The search for LR brings up links to a film by that name, whereas a search for “Little Rascals” brings up links to various children related events but nothing about food products. Lastly, the results of a search for “spitzbuben” shows that it is a German term for a jam centred biscuit, and that the term means “little rascals”.

9) That concludes my summary of the evidence filed, insofar as I consider it necessary.

DECISION

10) I first turn to the ground of opposition based on section 5(2)(b) which reads:

5.-(2) A trade mark shall not be registered if because -

- (a)
- (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.”

11) An “earlier trade mark” is defined in section 6, the relevant part of which states:

“6.-(1) In this Act an "earlier trade mark" means -

- (a) a registered trade mark, international trade mark (UK) or Community trade mark which has a date of application for registration earlier than that of the trade mark in question, taking account (where appropriate) of the priorities claimed in respect of the trade marks.”

12) The opponent is relying upon its four trade marks listed in paragraph 3 above which are all clearly earlier trade marks. Of the marks relied upon two (2058298 and 2153415) have been put to strict proof of use by the applicant and are subject proof of use. Section six of the Act states:

“6A Raising of relative grounds in opposition proceedings in cases of non-use.

(1) This section applies where-

- (a) an application for registration of a trade mark has been published,
- (b) there is an earlier trade mark in relation to which the conditions set out in section 5(1), (2) or (3) obtain, and
- (c) the registration procedure for the earlier trade mark was completed before the start of the period of five years ending with the date of publication.

(2) In opposition proceedings, the registrar shall not refuse to register the trade mark by reason of the earlier trade mark unless the use conditions are met.

(3) The use conditions are met if-

- (a) within the period of five years ending with the date of publication of the application the earlier trade mark has been put to genuine use in the United kingdom by the proprietor or with his consent in relation to the goods or services for which it is registered, or
- (b) the earlier trade mark has not been so used, but there are proper reasons for non-use.

(4) For these purposes-

- (a) use of a trade mark includes use in a form differing in elements which do not alter the distinctive character of the mark in the form in which it was registered, and

- (b) use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.
- (5) In relation to a Community trade mark, any reference in subsection (3) or (4) to the United Kingdom shall be construed as a reference to the European Community.
- (6) Where an earlier trade mark satisfies the use conditions in respect of some only of the goods or services for which it is registered, it shall be treated for the purposes of this section as if it were registered only in respect of those goods or services.
- (7) Nothing in this section affects –
 - (a) the refusal of registration on the grounds mentioned in section 3 (absolute grounds for refusal) or section 5(4) (relative grounds of refusal on the basis of an earlier right), or
 - (b) the making of an application for a declaration of invalidity under section 47(2) (application on relative grounds where no consent to registration).”

13) I must first consider whether the opponent has fulfilled the requirement to show that genuine use of the marks has been made. In the instant case the publication date of the application was 25 May 2012, therefore the relevant period for the proof of use is 26 May 2007 – 25 May 2012. The requirements for “genuine use” have been set out by the Court of Justice of the European Union (CJEU) in its judgments in *Ansul BV v Ajax Brandbeveiliging BV*, Case C-40/01 [2003] RPC 40 and *Silberquelle GmbH v Maselli-Strickmode GmbH* Case C495/07, [2009] ETMR 28 and by the Court of Appeal in the UK in *LABORATOIRE DE LA MER Trade Mark* [2006] FSR 5. The principles established in these judgments have been conveniently summarised by Ms Anna Carboni, sitting as the Appointed person O-371-09 *SANT AMBROEUS*:

“(a) Genuine use means actual use of the mark by the proprietor or a third party with authority to use the mark: *Ansul*, [35] and [37].

(b) The use must be more than merely “token”, which means in this context that it must not serve solely to preserve the rights conferred by the registration: *Ansul*, [36].

(c) The use must be consistent with the essential function of a trade mark, which is to guarantee the identity of the origin of the goods or services to the consumer or end-user by enabling him, without any possibility of confusion, to distinguish the goods or services from others which have another origin: *Ansul*, [36]; *Silberquelle*, [17].

(d) The use must be by way of real commercial exploitation of the mark on the market for the relevant goods or services, i.e. exploitation that is aimed at maintaining or creating an outlet for the goods or services or a share in that market: *Ansul*, [37]-[38]; *Silberquelle*, [18].

(i) Example that meets this criterion: preparations to put goods or services on the market, such as advertising campaigns: *Ansul*, [37].

(ii) Examples that do not meet this criterion: (i) internal use by the proprietor: *Ansul*, [37]; (ii) the distribution of promotional items as a reward for the purchase of other goods and to encourage the sale of the latter: *Silberquelle*, [20]-[21].

(e) All the relevant facts and circumstances must be taken into account in determining whether there is real commercial exploitation of the mark, including in particular, the nature of the goods or services at issue, the characteristics of the market concerned, the scale and frequency of use of the mark, whether the mark is used for the purpose of marketing all the goods and services covered by the mark or just some of them, and the evidence that the proprietor is able to provide: *Ansul*, [38] and [39]; *La Mer*, [22] - [23].

(f) Use of the mark need not always be quantitatively significant for it to be deemed genuine. There is no *de minimis* rule. Even minimal use may qualify as genuine use if it is the sort of use that is appropriate in the economic sector concerned for preserving or creating market share for the relevant goods or services. For example, use of the mark by a single client which imports the relevant goods can be sufficient to demonstrate that such use is genuine, if it appears that the import operation has a genuine commercial justification for the proprietor: *Ansul*, [39]; *La Mer*, [21], [24] and [25].”

14) The marks concerned are registered for the following goods:

2058298 YORKSHIRE FAT RASCAL	Biscuits, cakes and confectionery.
2153415 LITTLE RASCAL	Biscuits; cakes.

15) The only use shown for mark 2058298 which is clearly within the period are the three press articles. The other items mentioned at paragraph 6 above are undated (paper bag), clearly outside the period (point of sale menu) or of indeterminate date (cafe menu). The sales figures are not recorded separately but all “rascal” products are included in a single sales return. I do not find this evidence compelling and find that the opponent has not shown use of its trade mark 2058298 during the relevant period. I now turn to consider the evidence in relation to trade mark 2153415. The opponent has filed a menu, point of sale material from its store and also a mail order form. All these are clearly dated within the relevant period and show that the opponent was offering a

scone/tea cake under the mark LITTLE RASCAL. Although the sales figures are not provided for this mark I consider the evidence sufficient to accept that the opponent has used the mark, but only on part of its specification. I do not believe that the product being offered could be termed a biscuit in the UK, no matter how far one stretches the definition of the word. In the UK a biscuit is usually a crisp, hard item whereas a cake is usually soft. I find use proved in respect of cake.

16 When considering the issues under Section 5(2) and the likelihood of confusion, I take into account the guidance from the settled case law provided by the CJEU in *Sabel BV v Puma AG* [1998] RPC 199, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc* [1999] RPC 117, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* [2000] F.S.R. 77 and *Marca Mode CV v Adidas AG & Adidas Benelux BV* [2000] E.T.M.R. 723, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH* C-120/04 and *Shaker di L. Laudato & C. Sas v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) C-334/05 P (LIMONCELLO)*. In the recent case of *La Chemise Lacoste SA v Baker Street Clothing Ltd* [ALLIGATOR O/333/10] Mr Hobbs QC acting as the Appointed Person set out the test shown below which was endorsed by Arnold J. in *Och-Ziff Management Europe Ltd and Oz Management Lp v Och Capital LLP; Union Investment Management Ltd & Ochocki*, [2010] EWCH 2599 (Ch).

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

(e) and beyond the usual case, where the overall impression created by a mark depends heavily on the dominant features of the mark, it is quite 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 in that mark;

(f) a lesser degree of similarity between the marks may be offset by a greater degree of similarity between the goods, and vice versa;

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

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

(i) 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;

(j) if the association between the marks causes the public to wrongly believe that the respective goods or services come from the same or economically linked undertakings, there is a likelihood of confusion.

17) Originally the opponent was opposing on the basis of four earlier trade marks. However, I have found that it has not used its trade mark 2058298 and that its mark 2153415 has only been used on cakes. Given that marks 2153415 and 2534997 are for the identical words LITTLE RASCAL and that 2534997 includes in its specification the term “cakes” I shall only consider the later mark 2534997 as it must offer the opponent a stronger case. Therefore, the comparison will be between the mark applied for and the opponent’s marks 2486947 and 2534997.

Distinctive character of the opponent’s earlier trade marks

18) The opponent has provided evidence of use of both marks FAT RASCAL and LITTLE RASCAL in the UK. Whilst I am willing to accept that the opponent has used these marks prior to 5 April 2012 in respect of a cake, the use is not sufficient for the opponent to benefit from an enhanced reputation. The sales figures relate to use of the three marks (FR, YFR and LR). They have not been put into context of the overall market for cakes etc, no details were provided regarding marketing or public/trade perception. The opponent contends that the words “fat rascal” are generic for the type of cake that the opponent offers for sale. However, the evidence it provided singularly failed to back up this contention. If the mark were truly generic it would surely have been possible to find a large number of bakers and other establishments offering their own version of “rascals” for sale, as one does for all manner of other cakes. All that the applicant provided was a number of recipes for “fat rascals” which could easily have been linked to people who have visited the opponent’s cafes and stores wishing to make their own version. Much of the evidence was not from UK sources. I believe that the opponent’s marks are inherently distinctive for the goods for which they are registered.

The average consumer and the nature of the purchasing process

19) I must now determine the average consumer for the goods of the parties. Clearly, the specifications of both parties would be aimed at the general public wishing to have a sweet snack. The products of the two parties are, broadly, biscuits and cakes. These are not expensive items, will be purchased regularly and will not involve particular care in the selection, other than a check if one has allergies such as an intolerance of nuts. For the most part such items will be on display on supermarket /store shelves or online and the public will self select. Whilst aural considerations must not be overlooked it is the visual aspect of the competing trade marks that will dominate the selection process.

Comparison of goods

20) For ease of reference I reproduce the specifications of both parties:

Applicant's specification	Opponent's specification
Class 30: Biscuits having a chocolate or chocolate flavoured coating and/or containing chocolate and/or chocolate flavoured ingredients.	2534997: Class 30: Fruit scones; cakes; bakery goods; chocolate cakes; cakes with chocolate chunks; baked dough products; muffins; cookies; gateaux; biscuits; scones; teacakes; buns; pastries; confectionery.
	2486947: Class 30: Fruit scones

21) Clearly, the opponent's mark 2534997 has the term "biscuits" in it which is identical to the applicant's specification. I now turn to compare "fruit scones" to "biscuits". The accepted test for comparing goods is that set out by Jacob J. in *British Sugar Plc v James Robertson & Sons Limited* [1996] RPC 28 TREAT, which was effectively endorsed by the Advocate General in *Canon*; ETMR 1. The factors to be taken into account are:

- a) The respective uses of the respective goods;
- b) The respective users of the respective goods;
- c) The physical nature of the goods;
- d) The respective trade channels through which the goods reach the market;
- e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be found in supermarkets and in particular whether they are, or are likely to be found on the same or different shelves;
- f) The extent to which the respective goods are competitive. This inquiry may take into account how those in trade classify goods, for instance whether market research companies, who of course act for industry, put the goods in the same or different sectors.

22) To my mind the uses of cakes and biscuits are very similar in that both are sweet treats usually, but not always, consumed along with a beverage, traditionally tea. The users will be the same members of the general public. The physical nature of the goods is very similar in that both are made of similar ingredients and both result in a sweet snack. The trade channels would be similar and they are found very close to each other

in supermarkets/ stores. I would also regard them as being in competition with each other. Overall, biscuits and cakes are, in my opinion, highly similar.

Comparison of trade marks

23) The trade marks to be compared are as follows:

Applicant's mark	Opponent's marks
CHOCOLATEY RASCAL	2534997: LITTLE RASCAL
	2486947: FAT RASCAL

24) It is well established that the average consumer is considered to be reasonably well informed, circumspect and observant but perceives trade marks as wholes and does not pause to analyse their various details. In addition, he rarely has the chance to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them he has kept in his mind. In reaching a conclusion on similarity, I must identify what I consider to be the distinctive and dominant elements of the respective trade marks and, with that conclusion in mind, I must go on and compare the respective trade marks from the visual, aural and conceptual perspectives.

Distinctive and dominant components

25) The applicant's mark has a specification limited to chocolate biscuits. Therefore, the initial word "chocolatey" will be seen as descriptive. The dominant and distinctive element is therefore the word RASCAL. Whilst the terms "Little" and "Fat" in the opponent's marks could also be said to describe a characteristic of the product, to my mind, these words, when used as a prefix for RASCAL, form well known phrases and imbue the whole with a very clear meaning. The term RASCAL is normally used in the UK today as a term of affection for someone who is mischievous, a scallywag. This applies irrespective of the age of the person being referred. Although the word RASCAL provides the main meaning, the words "Little" and "Fat" do condition the term. As such I believe that the distinctiveness lies within the marks as a whole. I will approach the comparison of the trade marks with these conclusions in mind.

Visual / Aural and Conceptual similarity

26) Clearly all three marks have as their second word the term RASCAL. They differ only in their initial words, all of which effectively condition the second word by describing a physical characteristic. Clearly, there is a significant visual, aural and conceptual similarity between the marks albeit there are differences. Overall, the respective marks share a high level of similarity.

Likelihood of confusion

27) I must now take all the above into account and consider the matter globally taking into account the interdependency principle- a lesser degree of similarity between trade

marks may be offset by a greater degree of similarity between goods and vice versa. The evidence does not allow me to find the opponent to have a reputation in class 30 goods, however the goods in question are either identical (2534997) or highly similar (2486947) and the marks are also highly similar such that, allowing for the concept of imperfect recollection, there is a likelihood of consumers being confused into believing that the goods provided by the applicant are those of the opponent or provided by some undertaking linked to them. **The opposition under Section 5(2) (b) therefore succeeds in total.**

CONCLUSION

28) The opponent has been successful in its opposition under Section 5(2)(b).

COSTS

29) As the opponent has been successful it is entitled to a contribution towards its costs.

Expenses	£200
Preparing a statement and considering the other side's statement	£200
Preparing evidence and considering the evidence of the other side	£800
Preparing for and attending a hearing	£800
TOTAL	£2,000

30) I order Rivington Foods Ltd to pay Bettys & Taylors Group Ltd the sum of £2,000. 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.

Dated this 13th day of August 2013

**George W Salthouse
For the Registrar,
the Comptroller-General**