

## TRADE MARKS ACT, 1963

Decision in Hearing at the Patents Office

IN THE MATTER OF an application for registration of Trade Mark No. 163398 and  
in the matter of an Opposition thereto.

CHANELLE PHARMACEUTICALS  
MANUFACTURING LIMITED

Applicants

CHANEL LIMITED

Opponents

1. Chanelle Pharmaceuticals Manufacturing Limited, an Irish company of Loughrea, Co. Galway, Ireland, manufacturers and merchants, made application (No. 94/2374) on 19 April, 1994 to register the word “CHANELLE” together with the device of a seahorse (reproduced below) as a Trade Mark in Part A of the Register in Class 5 in respect of the following goods:

“Veterinary pharmaceutical preparations and substances.”



2. The Application was accepted for registration in Part A of the Register and was advertised under No. 163398 in Journal No. 1770 on 4 October, 1995.

3. Notice of Opposition pursuant to Section 26 of the Act was filed on 7 May, 1996 by Chanel Limited, a British Company, of Queens Way, Croyden, Surrey CR9 4DL, United Kingdom, manufacturers and merchants. The Applicants filed a counter-statement on 15 July, 1996 and evidence was, in due course, filed by the parties under Rules 37, 38, 39 and 40 of the Trade Mark Rules, 1963.
  
4. The Opposition became the subject of a Hearing before me, acting for the Controller on 10 July, 2000. The parties were notified on 8 November, 2001 that I had decided to dismiss the Opposition and to allow the mark proceed to registration. I now state the grounds of my decision and the materials used in arriving thereat.
  
5. In their Notice of Opposition the Opponents stated:
  - (i) We have for many years traded and have a substantial reputation under the CHANEL Trade Mark in relation to a wide range of goods.
  - (ii) We are the Proprietor of Irish Trade Mark Registrations and Applications with the following particulars (the “CHANEL Trade Mark”):

Trade Mark	Particulars
CHANEL	Registration No: 30265 Date: 10.11.1938 Class: 3 Journal:333 at page 120
CHANEL	Registration No: 30266 Date: 2.12.1938 Class 5 Journal no.:333 at page 120

CHANEL	Registration No: 135306 Date: 14.7.1989 Class: 3 Journal: 1668 at page 766
CHANEL NO. 5 NO. 5 CHANEL (series of 2 marks)	Registration No: 135307 Date: 14.7.1989 Class: 3 Journal : 1668 at page 766
CHANEL	Registration No: B71682 Date: 9.5.1967 Class: 25 Journal: 1052 at page 89
CHANEL	Registration No: 133485 Date: 29.3.1989 Class: 14 Journal : 1654 at page 248
CHANEL	Registration No: 133486 Date: 29.3.1989 Class: 18 Journal: 1654 at page 248
CHANEL	Registration No: 133487 Date: 29.3.1989 Class: 25 Journal: 1654 at page 248

CHANEL	Registration No: 139155 Date: 10.4.1990 Class: 16 Journal : 1689 at page 830
CHANEL	Registration No: 141130 Date: 3.9.1990 Class: 26 Journal: 1696 at page 1289
CHANEL	Registration No: 160357 Date: 20.4.1994 Class: 24 Journal: 1760 at page 976
CHANEL	Registration No: B85397 Date: 27.6.1974 Class: 14 Journal: 1310 at page 75
CHANEL	Registration No: B85398 Date: 27.6.1974 Class: 18 Journal : 1310 at page 75
CHANEL	Registration No: 90334 Date: 29.7.1976 Class: 25 Journal: 1370 at page 239
NO. 5 CHANEL (DEVICE)	Registration No: 63158 Date: 2.11.1959 Class: 3 Journal: 905 at page 99

NO. 5 CHANEL  
(DEVICE)

Registration No: 63159  
Date: 2.11.1959  
Class: 3  
Journal: 905 at page 99

NO. 5 CHANEL  
(DEVICE)

Registration No: 63157  
Date: 2.11.1959  
Class: 3  
Journal: 905 at page 98

CHANEL NO. 19

Registration No: 81767  
Date: 17.7.1972  
Class: 3  
Journal: 1264 at page 107

NO. 31 CHANEL

Registration No: 100208  
Date: 25.2.1980  
Class: 3  
Journal: 1424 at page 498

COCO CHANEL  
(DEVICE)

Registration No: 114157  
Date: 29.8.1984  
Class: 3  
Journal: 1501 at page 399

CHANEL

Application No. 93/2566  
Date: 15.6.1993.11.1959  
Class: 37

CHANEL

Application No. 93/2567  
Date: 15.6.1993  
Class: 42

- (iii) Our CHANEL Trade Mark denotes and has long denoted to the trade and the public, goods sold by us and has long distinguished such goods from the goods of other merchants and traders.
- (iv) The proposed use of the Trade Mark which the Applicant has applied to register is calculated to deceive and cause confusion and is otherwise disentitled to protection in a Court of law and in accordance with the provisions of Section 19 of the Trade marks Act, 1963, should be refused registration.
- (v) The said Trade Mark which the Applicant has applied to register so nearly resembles the CHANEL Trade Mark which is already on the Register in respect of the same goods or description of goods that the Applicant's mark is likely to deceive or cause confusion. In accordance with the provisions of Section 20 of the Trade Marks Act, 1963, registration of the Trade Mark should be refused.
- (vi) The said Trade Mark which the Applicant has applied to register is calculated to deceive and to lead to the Applicant's goods being passed off as or mistaken for goods manufactured or sold by us and in which we trade as manufacturers and merchants.
- (vii) The said Trade mark which the Applicant has applied to register is not adapted, in relation to the goods in respect of which the Trade Mark is proposed to be registered, to distinguish the said goods from the goods of other traders and registration of the Trade Mark would therefore offend against the provisions of Section 17 of the Trade Marks Act, 1963.
- (viii) The said Trade Mark which the Applicant has applied to register is not capable in relation to the goods in respect of which it is proposed to be registered, of distinguishing the said goods from those of other traders and registration of the Trade Mark would therefore offend against the provisions of Section 18 of the Trade Marks Act, 1963.
- (ix) Because the Application is in respect of a Trade Mark that so nearly resembles the CHANEL Trade Mark and given the similarity of the goods, there exists a likelihood of confusion on the part of the public which includes the likelihood of association with the CHANEL Trade Mark.
- (x) The CHANEL Trade Mark has such a reputation in this State that the use of the mark proposed for registration by the Applicant, without due cause,

would take unfair advantage of, or be detrimental to the distinctive character or the repute of the CHANEL Trade Mark.

- (xi) The Applicant does not use or propose to use the Trade Mark which he has applied to register for the purposes of indicating a connection in the course of trade between the Applicants and the goods and registration of the Trade Mark would therefore offend against the provisions of Section 2 and 25 of the Trade Marks Act, 1963.
- (xii) Registration of the said mark is contrary to Council Directive No. 89/104 EEC to approximate the laws of the Member States relating to Trade Marks.
- (xiii) The Application in respect of the said Trade Mark which the Applicant has applied to register ought, in the discretion of the Controller, to be refused and costs awarded to the Opponents.

6. In their Counter-Statement the Applicants stated as follows:

- (i) Chanelle Pharmaceuticals Manufacturing Limited was established in 1985. However, the parent company, Chanelle Veterinary Limited, has been in existence since 1980. The Applicants have carried on the business of manufacturers and merchants of veterinary pharmaceutical preparations since 1985. The Chanelle Group of companies employs approximately 100 persons and is an important employer in the Loughrea area of County Galway. A number of companies form part of the Chanelle group of companies, which includes Chanelle Animal Health Limited a UK company.
- (ii) The Applicants are the proprietors of the Trade Mark “CHANELLE + device of a seahorse” (hereinafter referred to as “the Trade Mark”) which they have applied to register in part A of the Register in Class 5 in respect veterinary pharmaceutical preparations and substances (hereinafter referred to as “said Goods”).
- (iii) The Applicants and Chanelle Animal Health Limited use the identical mark CHANELLE + the device of a seahorse. Chanelle Veterinary Limited also uses the CHANELLE mark and the device of a seahorse with

a slightly different physical appearance. The companies have used the mark CHANELLE since their foundation.

- (iv) The Applicants accept that the Opponents have a substantial reputation in relation to perfumes, toilet preparations and toilet soaps and like scented products. However, the Applicants are not aware that the Opponents have a substantial reputation for other goods. At least the Applicants are unaware of any such reputation in this country.
- (v) It is accepted that the Opponents are the proprietors of the various Irish Registered Trade Marks and Applications listed under paragraph 2 of the Notice of Opposition. It is denied that goods in Classes 14, 16, 18, 24, 25 and 26 and the services in Classes 37 and 42 are goods/services, as appropriate, corresponding to the said Goods.
- (vi) It is noted that the only goods covered by the single registration in Class 5, namely Registered Trade Mark No. 30266, are bath salts.
- (vii) It is submitted that there would be no confusion between said Goods and the goods covered by the various Trade Mark Registrations and the two Applications listed under paragraph 2 of the Notice of Opposition.
- (viii) The Trade Mark CHANEL as such is covered by the Trade Mark Registration Nos. 30265 (Class 3), 30266 (Class 5), B71682 (Class 25), B85397 (Class 14), B85398 (Class 18), 90334 (Class 25), 133485 (Class 14), 133486 (Class 18), 133487 (Class 25), 135306 (Class 3), 139155 (Class 16), 141130 (Class 26) and 160357 (Class 24). The remaining Trade Mark Registrations are either device marks, which bear no resemblance to the said Trade Mark or, alternatively, trade marks which include the word CHANEL and certain Arabic numerals.
- (ix) It is submitted that the Opponents' reputation lies primarily in the goods of the type registrable in Class 3 and to a lesser extent in goods registrable in Class 5 of the International Classification of Goods and Services.
- (x) As regards the statements made in paragraph 4 of the Notice of Opposition, it is submitted that these are without foundation. We submit that there is absolutely no likelihood of deception or confusion between any of the Opponents' marks and said Trade Mark. Furthermore, said Trade Mark has been in use since 1980 and we are unaware of any confusion arising through the use of the respective trade marks.



- (xi) The statements made in paragraph 5 of the Notice of Opposition are denied and are at variance with the decision of the Controller to accept the Application.
- (xii) As regards the allegations made in paragraph 7 of the Notice of Opposition, there is absolutely no evidence to support the allegations made.
- (xiii) Likewise as regards the allegations made in paragraph 8 of the Notice of Opposition these are denied. It will be appreciated that said Trade Mark has been deemed eligible for registration in Part A of the Register.
- (xiv) As regards the allegations made in paragraph 9 of the Notice of Opposition, again we submit that there is no likelihood of confusion nor is there any evidence of any confusion having occurred to date, especially as the respective marks have co-existed for almost seventeen years.
- (xv) The statements made in paragraph 10 of the Notice of Opposition are denied.
- (xvi) As regards the allegations made in paragraph 11, this is clearly incorrect, given that the said Trade Mark has been in use since 1985 and the mark CHANELLE has been in use since 1980.
- (xvii) The allegations made in paragraph 12 of the Notice of Opposition are denied.
- (xviii) The Applicants request that the present Opposition be rejected and that an award of costs be made in favour of the Applicants.

7. Evidence submitted by the Opponents under Rule 37 consisted of :

- a Statutory Declaration (and exhibits) by Nicholas Martin Wilson, a trade mark attorney and partner in the firm Withers & Rogers of London, United Kingdom, trade mark attorneys for Chanel Limited,
- a Statutory Declaration (and exhibit) by Rosemary Booth, the principal translator at Withers & Rogers,
- Statutory Declarations (and exhibits) by Martin Hamilton, Director and Company Secretary of Chanel Limited,
- a Statutory Declaration (and exhibit) by Richard Waring, an Associate Director of Lansdowne Market research Limited.

8. Evidence submitted by the Applicants under Rule 38 consisted of :
- a Statutory Declaration (and exhibits) by Michael Hilary Burke, Managing Director of Chanelle Pharmaceuticals Manufacturing Limited.
9. Evidence submitted by the Opponents under Rule 39 consisted of :
- a Statutory Declaration (and exhibits) by Martin Hamilton, Director and Company Secretary of Chanel Limited.
10. Evidence submitted by the Applicants under Rule 40 consisted of :
- a Statutory Declaration by Michael Hilary Burke, Managing Director of Chanelle Pharmaceuticals Manufacturing Limited.
11. Evidence submitted by the Opponents under Rule 40 consisted of :
- a Statutory Declaration (and exhibit) by Martin Hamilton, Director and Company Secretary of Chanel Limited.
12. At the Hearing the Opponents were represented by Mr Paul Gallagher, SC, instructed by FR Kelly & Co. and the Applicants by Mr Paul Coughlan, BL, instructed by Anne Ryan & Co.
13. I look first at the objections based on Sections 2 and 25. The relevant parts of these two Sections are as follows:

Section 2

‘ “trade mark” means ..... a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right either as proprietor or as registered user to use the mark .....’;

## Section 25

“(1) Any person claiming to be the proprietor of a trade mark used or proposed to be used by him who is desirous of registering it must apply in writing to the Controller in the prescribed manner for registration either in Part A or Part B of the register.”

As I understand it, the Opponents arguments are (i) that the Applicant’s use of the mark CHANELLE plus seahorse device is not trade mark use and (ii) that the Applicants are not entitled to be registered as the proprietors of the mark because they appropriated to themselves the Opponents’ mark when the founders of the Applicants adopted the word “CHANELLE”.

The Opponents argued that the mark is used on products which have as their registered trade mark an entirely different name. They referred to exhibits submitted by the Applicant and argued that the prominence of the mark CHANELLE and seahorse device on the various products was insignificant or subsidiary. If anything, its use identified the manufacturer only and did not constitute use for the purposes of indicating a connection in the course of trade between the goods and the Applicant.

I am satisfied from the evidence submitted by the Applicants that their use of the mark CHANELLE plus seahorse device is trade mark use. In my view the mark is used as a house-mark on the various products produced by the Applicants. It is also clear from the brochures and promotional literature exhibited that the mark in question acts as an indicator of origin and connects the Applicants with the goods for which registration is sought, in the course of trade.

On the second point, the Opponents argued that the adoption of the name CHANELLE was not independently chosen, as it appears that the Applicants derived the name from that of a boutique purchased by Mr. Burke. The Opponents submitted that the original choice of the name CHANELLE for a boutique was made by the original proprietors of the boutique in order to impinge or “piggy-back” on the international goodwill and reputation of the Opponent and was not chosen independently.

Mr Burke submitted in his Statutory Declaration of 8 October, 1997 that use of the name CHANELLE dates back to about 1974 when he and his wife purchased a residence in Loughrea, part of which had been used as a business premises for a boutique named CHANELLE. He stated that he and his wife adopted the name CHANELLE which they used to name their daughter, a horse, a boat and later their veterinary wholesale/distribution company, namely Chanelle Veterinary Ltd. and that, subsequently, the other various CHANELLE companies were established.

I am not in a position to take a view on how the original proprietor of the boutique in Loughrea came to adopt the name CHANELLE but I am prepared to accept the bona fides of Mr. Burke, whose explanation as to how he came to adopt the name CHANELLE is reasonable and credible and is supported by evidence. I believe further that, in the circumstances of this case where application is made for a mark which is significantly different to the Opponents' mark and in respect of goods which are at some remove from the goods in which the Opponents trade, it would be unreasonable for me to exercise the Controller's discretion against the Applicant.

The objections based on Sections 2 and 25 are therefore dismissed.

14. The Opponents have also opposed the application on the basis of section 20. The standard test for comparing similarity of marks is that set down in *Pianotist* [(1906) 23 RPC 774] and applied by the Supreme Court in *Coca-Cola v F Cade & Sons Ltd.* [1957 IR 196]. In *Pianotist*, Parker J stated:

“You must take the two words. You must judge them, both by their look and by their sound. You must consider the nature and kind of customer who would be likely to buy the goods. In fact, you must consider all the surrounding circumstances; and you must further consider what is likely to happen if each of those trade marks is used in a normal way as a trade mark for the goods of the respective owners of the marks. If, considering all those circumstances, you come to the conclusion that there will be confusion – that is to say, not necessarily that

one man will be injured and the other will gain illicit benefit, but there will be a confusion in the minds of the public which will lead to confusion in the goods – then you may refuse registration, or rather you must refuse registration in that case”.

The Applicants’ mark is a composite mark, consisting of the word “CHANELLE” in a particular script, which appears between two parallel lines, the line above the word being broken by the seahorse device which appears above the letter “n”. The Opponents’ mark is the word “CHANEL”. In my opinion the word “CHANELLE” is the phonetic equivalent of the Opponents’ mark, “CHANEL”, although I note from the survey evidence submitted by the Opponents that the responses given on the pronunciation of the two words varied quite considerably. However, the marks are, visually, quite different. The Applicants’ mark has several additional features; the word element is in a slightly stylised script and has the additional letters “le”, the device of a seahorse appears over the letter “n” and the word “CHANELLE” appears between two parallel lines, the top line being broken by the seahorse device. The overall impression created by the Applicants’ mark is quite different to that created by the Opponents’ mark and I am satisfied that, judged on their look and their sound, the Applicants’ mark does not so nearly resemble the Opponents’ mark as to be likely to deceive or cause confusion. However, I must also consider the nature and kind of customer who would be likely to buy the goods and all other relevant circumstances.

The application is in respect of “Veterinary pharmaceutical preparations and substances.” in Class 5 and I am prepared to accept that the Applicants have used the mark on these goods since 1985. The goods on which the Applicants use the mark are essentially animal health products, whereas the Opponents’ mark is used primarily on perfumes, toiletries and cosmetics, all of which are for use by humans. The Applicants’ goods would be bought by farmers, veterinary surgeons and the small-pet owning, general public. The Opponents’ goods would be bought by the general public and more particularly that section of the general public who shop in the upper end of the perfumes, toiletries and cosmetics market. To the best of my knowledge, the Opponents’ goods are sold at premium prices,

reflecting the exclusive image the CHANEL brand has generated over a long number of years.

The Applicants' goods are sold through pharmacies, veterinary surgeons, merchants and co-operatives. In many instances, the products would be dispensed by veterinary surgeons or pharmacists who would have expertise in the veterinary pharmaceutical product market. The Opponents stated that their goods are sold through selected retail outlets which are usually pharmacies and submitted that, particularly in the case of pharmacies outside the Dublin area, their goods would be sold alongside traditional pharmaceutical products. I understand that the Opponents' goods would also be sold through other select retail outlets such as select department stores. It is my understanding of selective distribution arrangements that brand owners take considerable care in selecting those outlets through which they sell their goods, in order to maintain the exclusive image of their brand. It is very unlikely, in my view, that any salesperson selling or dispensing the Opponents' goods in any of the Opponents' select retail outlets would not have a reasonable, if not intimate, knowledge of the Opponents' products. Thus I am satisfied that, in the majority of cases, the Applicants' goods and the Opponents' goods would be sold or dispensed by persons who have either professional expertise in the market or a good knowledge of the goods in question.

The Opponents stressed the exclusivity that attaches to the CHANEL brand and their diligence in pursuing those who would seek to take advantage of or piggy-back on the reputation of their mark. At the hearing and in their evidence prior to the hearing, the Opponents consistently argued that registration of the Applicants' mark could lead to the Applicants' mark being used on pharmaceutical goods for human use. I do not accept this argument; registration of the mark will allow the Applicants use the mark on only those goods for which registration is sought, i.e. veterinary pharmaceutical products all of which are for animal use. Furthermore, the Applicants firmly and unequivocally rejected the Opponents' contention.

I have also had regard to the Applicants' use of their mark since 1985. I am satisfied on the evidence of Mr Burke that the Applicants have built up a successful veterinary pharmaceutical business in this country since at least 1985. I

am also satisfied that the Applicants' mark would be well known amongst those consumers to whom the Applicants' mark is addressed. Similarly, I am satisfied that the Opponents' mark would be well known amongst those consumers to whom the Opponents' mark is addressed. In my opinion, these proceedings concern two businesses, both of which are successful in their respective and distinct markets, and their respective trade marks, which I believe have co-existed without any instance of confusion for several years prior to and after the relevant date, i.e. 19 April, 1994, being the date on which application for registration was made by the Applicants.

For the sake of completeness, I should state that the standard test for comparing goods is that set down in *Jellinek* [(1946) 63 RPC 69]. In applying that test, having regard to (i) the nature and composition of the goods, (ii) the uses of the goods and (iii) the trade channels through which the goods are sold, I find that the goods for which the Applicants have sought registration are neither the same goods nor goods of the same description as those for which the Opponents' mark is registered.

Taking all the surrounding circumstances into consideration I find that the Applicants' mark does not so nearly resemble the Opponents' mark as to be likely to deceive or cause confusion and that the opposition fails on the basis of Section 20.

15. A further ground of opposition is that based on Section 19. That Section reads as follows:

“19. – It shall not be lawful to register as a trade mark or part of a trade mark any matter the use of which would, by reason of its being likely to deceive or cause confusion or otherwise, be disentitled to protection in a court of law, or would be contrary to law or morality, or any scandalous design.”

The Opponents' argument is that they have established a substantial reputation and goodwill in the mark CHANEL, that use of the mark CHANELLE plus

seahorse device would be likely to deceive or cause confusion, and that the trade mark applied for would therefore be disentitled to protection in a court of law.

The Opponents referred to the following authorities in support of their objections: *Nettlefold Advertising PTY Ltd v Nettlefold Signs PTY Ltd* [1997] (unreported Federal Court of Australia), *Southern Cross Refrigerating Company v Toowoomba Foundry PTY* [1954] (High Court of Australia), *C&A Modes and C&A Ireland v C&A Waterford & Others* [1976] IR 198, *Falcon Travel Ltd. v Owners Abroad Group plc* [1991] 1 IR 175, *Gallagher (Dublin) Ltd, Hergal (1981) Ltd & Gallagher Ltd v The Health Education Bureau* [1982] 1 LRM 240, *Smith Hayden & Coy Ltd* [1946] RPC 97, *Bali trade mark* [1969] RPC 472, *Jardex trade mark* [1946] RPC 19 and *Unilever trade mark* [1993] RPC 239.

The standard test for an objection under Section 19 is that set down in the *Smith Hayden & Coy Ltd* application [1946] RPC 97, as adapted by Lord Upjohn in the *Bali* case [1969] RPC 472. In the present case, this would be applied as follows:

Having regard to the user of the Opponents' mark, is the Hearing Officer satisfied that the Applicants' mark, if used in a normal and fair manner in connection with any goods covered by the registration proposed, will not be reasonably likely to cause deception and confusion amongst a substantial number of persons.

However, before section 19 can be applied it must be established that the Opponents' mark is known to a substantial number of persons. I am satisfied that the Opponents have the required reputation in their mark. The CHANEL mark enjoys a substantial reputation worldwide in the fashion industry and in the perfumes and related products market. In their Counter-Statement, the Applicants acknowledged that the Opponents have a substantial reputation in relation to perfumes, toilet preparations and toilet soaps and like scented products, but did not accept that they have a substantial reputation in other goods, at least not in this country. The onus, therefore, is on the Applicants to show that there is no reasonable likelihood of confusion.



The Opponents' contention, based on their submissions and the authorities in support of those submissions, is that the reputation of CHANEL as an exclusive brand or name in the fashion, perfume and related products markets is such that a substantial number of persons, on seeing the mark "CHANELLE" plus seahorse device on veterinary pharmaceutical products, would automatically recall CHANEL perfumes and related products or CHANEL haute couture and, as a result, mistakenly associate some connection between the Opponents' goods and the veterinary pharmaceutical goods of the Applicant. For essentially the same reasons as those set out in dealing with the Section 20 objections, I do not believe there exists a likelihood of confusion amongst a substantial number of persons. I am persuaded by the arguments of the Applicants as to the differences between the two marks and the goods, and by their arguments that the two marks have co-existed for several years prior to and after the date of application. I am satisfied therefore that the Applicants have discharged the onus which is on them in this regard and I dismiss the opposition under Section 19.

16. The Opponents have also opposed the application on the basis of Sections 17 and 18 of the Act. At the Hearing the Opponents argued that because of the Opponents' substantial reputation in the CHANEL mark, established through extensive use over a long period of time, and because of the similarity between the CHANEL mark and that of the Applicants, the mark for which registration is sought was not adapted to distinguish nor was it capable of distinguishing the goods of the Applicants. I have already dealt with this argument in the preceding paragraphs and I do not propose to deal with again here. I believe it is sufficient if I state that I am satisfied the mark for which registration is sought is both adapted to distinguish within the meaning of Section 17 and capable of distinguishing within the meaning of Section 18.

17. As the application falls to be determined in accordance with the Trade Marks Act, 1963, I do not accept the Opponents' contention that registration of the mark would be contrary to Council Directive No. 89/104 EEC to approximate the laws of the Member States relating to trade marks.

18. As the Opposition has failed on all grounds, I see no reason to exercise the Controller's discretion adversely to the Applicants.

Dermot Sheridan  
Acting for the Controller

November, 2001