

O-099-09

**TRADE MARKS ACT 1994**

**IN THE MATTER OF APPLICATION No. 2461799  
BY GRP 55 LIMITED TO REGISTER A  
TRADE MARK IN CLASSES 5, 9, 21 & 37**

**AND**

**IN THE MATTER OF OPPOSITION THERETO  
UNDER NO. 95798 BY STV INTERNATIONAL LIMITED**

## BACKGROUND

1. On 19 July 2007 Grp 55 Limited (GRP) filed an application to register a trade mark on Form TM3, on which the words Strike and back were written by hand. The exact form for which the trade mark was applied has been the subject of correspondence between GRP and the Trade Marks Registry (TMR) which I will refer to later in this decision. Following examination, the trade mark Strike back (as two separate words) was accepted and published for opposition purposes on 21 September 2007 in Trade Marks Journal No.6702 for the following goods and services:

**Class 5:** Pest control agents; pesticides; chemical and biological preparations for pesticidal purposes; preparations for destroying pests.

**Class 9:** Animal traps (electric) for insects, vermin and animals.

**Class 21:** Animal traps (non-electric) for insects, vermin and animals; fly catches; traps for pests; traps for wild animals.

**Class 37:** Pest control; pest control for the prevention of pest infestation; extermination of pests; pest control relating to domestic and commercial buildings and habitats; treatment of surfaces with pest control formulations; fumigation of buildings and their contents against pests.

2. On 19 December 2007 STV International Limited (STV) filed a notice of opposition. This consists of a single ground based upon section 5(2)(b) of the Trade Marks Act 1994 (as amended) (the Act). In their Statement of Grounds STV indicate that in their view all of the goods and services applied for by GRP are either identical or similar to the goods contained in the following trade mark:

Trade Mark	No.	Application Date	Registration date	Goods
STRIKE 1	2340707	14.08.2003	23.01.2004	9 - Electronic insect killers.

3. In their Notice of Opposition STV say:

“The earlier mark is in respect of electronic insect killers and the opposed application is in respect of electronic and non-electronic pest killers. Electronic pest killers are identical goods and non-electronic pest killers are similar goods. The earlier mark also includes preparations for destroying pests and pest control services. All of these goods and services are sold through the same trade channels and are similar goods and services such that there is a real likelihood of confusion.”

4. On 2 April 2008 GRP filed a counterstatement which consists of a denial of the ground on which the opposition is based.

5. Only GRP filed evidence in these proceedings. Neither party requested to be heard; only GRP filed written submissions in lieu of a hearing. After a careful consideration of all the material before me, I give this decision.

## **EVIDENCE**

### **GRP's evidence**

6. This consists of a witness statement, dated 14 October 2008, by Robert Hawley who is a trade mark attorney at Mathys & Squire who are GRP's professional representatives in these proceedings. Mr Hawley explains that the information in his statement comes from either his own knowledge or from information provided to him by GRP's Managing Director. The vast majority of Mr Hawley's statement consists of submissions rather than evidence; as such it is neither necessary or appropriate for me to summarise these submissions here (I will of course bear them in mind when making my decision). Where evidence has been provided (in relation to the TMR's approach to Cross-Searching and the form in which the trade mark was applied), I refer to this evidence below.

### **The written submissions**

7. GRP filed written submissions which build on those mentioned above. Once again I will keep these in mind when making my decision.

## **DECISION**

8. The opposition is based solely upon section 5(2)(b) of the Act which reads as follows:

"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, or

there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark."

An earlier trade mark is defined in section 6 of the Act, 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 or international trade mark (EC) 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,”

9. In these proceedings STV is relying on the registered trade mark shown in paragraph 2 above. This has an application date of 14 August 2003 and as such it clearly qualifies as an earlier trade mark under the above provisions. The application for registration was published for opposition purposes on 21 September 2007, and the registration procedure for STV’s earlier trade mark was completed on 23 January 2004. Consequently, the registration is not subject to The Trade Marks (Proof of Use, etc) Regulations 2004.

10. In reaching my decision I have taken into account the guidance provided by the European Court of Justice (ECJ) in a number of judgments germane to this issue i.e. *Sabel BV v. Puma AG* [1998] R.P.C. 199, *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer* [1999] R.P.C. 117, *Lloyd Schuhfabrik Mayer & 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* (Case C-120/04) and *Shaker di L. Laudato & Co. Sas* (C-334/05),

It is clear from these cases that:

(a) the likelihood of confusion must be appreciated globally, taking account of all the relevant factors: *Sabel BV v. Puma AG*, paragraph 22;

(b) the matter must be judged through the eyes of the average consumer of the good/services in question; *Sabel BV v. Puma AG*, paragraph 23, who is deemed to be reasonably well informed and 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; *Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V* paragraph 27;

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details; *Sabel BV v. Puma AG*, paragraph 23;

(d) the visual, aural and conceptual similarities of the marks must therefore be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components; *Sabel BV v. Puma AG*, paragraph 23;

(e) when considering composite marks, it is only if all the other components of the mark are negligible that the assessment of the similarity can be carried out solely on the basis of the dominant element; *Shaker di L. Laudato & Co. Sas* (C-334/05), paragraph 42;

(f) an element of a mark may play an independent distinctive role within it without necessarily constituting the dominant element; *Medion AG V Thomson multimedia Sales Germany & Austria GmbH*, paragraph 30;

(g) a lesser degree of similarity between the marks may be offset by a greater degree of similarity between the goods, and vice versa; *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraph 17;

(h) 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; *Sabel BV v. Puma AG*, paragraph 24;

(i) mere association, in the sense that the later mark brings the earlier mark to mind, is not sufficient for the purposes of Section 5(2); *Sabel BV v. Puma AG*, paragraph 26;

(j) further, 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; *Marca Mode CV v. Adidas AG + Adidas Benelux BV*, paragraph 41;

(k) but if the association between the marks causes the public to wrongly believe that the respective goods come from the same or economically linked undertakings, there is a likelihood of confusion within the meaning of the section; *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraph 29.

### **The average consumer and the nature of the purchasing decision**

11. As the case law above indicates, it is necessary for me to determine who the average consumer is for the respective parties' goods and services and then to determine the manner in which the goods and services are likely to be purchased by this average consumer in the course of trade. Broadly speaking the goods and services at issue are preparations to destroy pests, traps for pests, insects, vermin and animals, and a range of pest control, prevention and extermination services (GRP), and electronic insect killers (STV) These are goods and services that will be purchased by both the general public and businesses.

12. I have no evidence as to how the goods and services are likely to be selected. That being the case (and applying what experience of my own I have in this area), it seems to me that the selection of the goods and services at issue is most likely (initially at least) to consist of a visual act made (insofar as the goods are concerned) on the basis of self selection in a retail environment, from a catalogue or on-line, and in relation to the services having reviewed, for example, listings (both on-line and in hard copy) in publications such as Yellow Pages®. Whilst these are likely to be the principal means by which the goods and services will be selected, I do not of course rule out that orders will also be placed by telephone and that word of mouth recommendations from e.g.

family, friends or from one business to another will also play a part in the selection process.

13. The cost of the goods and services are likely to vary from what I anticipate are quite small amounts for (say) a mousetrap or a pesticide to kill ants on a domestic scale, to what I assume are not insignificant sums for the same goods selected for use on a commercial scale. The latter is also likely to apply to more sophisticated traps or to the cost of arranging for a company to treat one's home or commercial premises. It seems to me that in selecting the goods and services at issue the average consumer would need to be conscious of the type of pest to be controlled or destroyed or animal trapped, or, given health concerns, the method of treating the infestation. Based on the above, I think the level of attention they will pay to their purchase is likely to vary from a relatively low level for an inexpensive product such as a mousetrap (but not I think as low a level as would be shown when selecting the proverbial bag of sweets), to a reasonably high (but not the very highest) level when selecting more sophisticated traps or pest control services.

**Comparison of goods**

<b>GRP's goods and services</b>	<b>STV's goods</b>
<p>5 - Pest control agents; pesticides; chemical and biological preparations for pesticidal purposes; preparations for destroying pests.</p> <p>9 - Animal traps (electric) for insects, vermin and animals.</p> <p>21 - Animal traps (non-electric) for insects, vermin and animals; fly catches; traps for pests; traps for wild animals.</p> <p>37 - Pest control; pest control for the prevention of pest infestation; extermination of pests; pest control relating to domestic and commercial buildings and habitats; treatment of surfaces with pest control formulations; fumigation of buildings and their contents against pests.</p>	<p>9 - Electronic insect killers</p> <p>[I note that despite STV's comments in paragraph 3 above, their trade mark is registered <u>only</u> in respect of electronic insect killers and does not also include preparations for destroying pests and pest control services].</p>

14. The leading authorities on how to determine similarity between goods and services are considered to be the *Canon* case (supra) and *British Sugar Plc v James Robertson & Sons Ltd (Treat)* [1996] R.P.C. 281. In the first of these cases the ECJ accepted that all relevant factors should be taken into account including the nature of the goods/services, their intended purpose, their method of use and whether they are in

competition with each other or are complementary. The criteria identified in the *Treat* case were:

- (a) The respective uses of the respective goods or services;
- (b) The respective users of the respective goods or services;
- (c) The physical nature of the goods or acts of service;
- (d) The respective trade channels through which the goods or services 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 or services 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 or services in the same or different sectors.

15. I have reproduced STV's views on the similarity in the goods and services at issue in paragraph 3 above. In his witness statement Mr Hawley comments on the similarity in the following terms:

"9...[STV's] goods are decidedly specific and specialised in their nature. This is not only in terms of the physical components of such products but also...with regard to the pests in respect of which they are aimed/used.

10. Vermin and animals...are most decidedly not identical or similar to insects. Furthermore [GRP] does not accept that the goods in classes 5 and 21 of the Application and/or the services in class 37 of the same are in any way similar to those for which [STV's] earlier mark is protected.

[GRP] contend that the aforesaid products and services are greatly different to [STV's] registered goods in terms of their composition, uses, channels of trade through which they are made available and market sectors in which they are positioned. It is [GRP's] further contention that they do not directly compete with [STV's] registered goods. [GRP] considers that it is supported in this opinion by the fact that the Registry's own cross-search list for class 9 makes no reference whatsoever to classes 5 and 37...."

16. At exhibit RJH-01 Mr Hawley provides a copy of the TMR's cross-search list in relation to class 9. While he is correct that the TMR does not routinely perform a cross-search between class 9 and classes 5 and 37, I note the following guidance which prefaces the cross-search list:

“As part of the examination process of your application, we search our register and records for earlier marks which may be the same or similar to your trade mark. We will only look in classes that may contain the same or similar goods or services to those in your application. Our cross-search list sets out those classes in which we would normally consider searching. **It is intended to be a guide only. The list is not exhaustive - we will use our discretion to decide exactly what classes to search.**” (my emphasis)

17. While I accept that the cross-search list may provide a useful starting point, as the highlighted portion above indicates it is only a guide. In the absence of any evidence to assist me, I must reach my own conclusions on the similarity or otherwise in the respective goods and services.

18. If one reviews GRP’s specifications it is clear they either provide or intend to provide a range of co-ordinated goods and services aimed at destroying or trapping pests, whereas STV provide or intend to provide electronic devices to kill insects. The purpose of the respective parties’ goods and services (i.e. to trap, destroy or eradicate pests) are, in my view, clearly similar.

19. As I mentioned above, the average consumer for the respective parties’ goods and services is likely to be the same. In the absence of evidence to the contrary, I see no reason why the respective parties’ goods could not originate from the same manufacturer, reach the market through the same distribution network and be sold by the same retailers i.e. both by general retailers and by retailers catering specifically for these types of goods.

20. Insofar as the respective goods in class 9 are concerned, it is not entirely clear to me how I should approach the word “trap” appearing in GRP’s specification. I note that a trap is defined in the 5<sup>th</sup> Edition of Collins English Dictionary (first published in 2000) as:

“a mechanical device or enclosed place or pit in which something, esp. an animal, is caught or penned.”

21. As far as I am aware, the only electric “traps” proper to class 9 are those designed to kill insects. That being the case, the respective parties’ goods are clearly identical.

22. Insofar as GRP’s goods in class 21 are concerned, these are traps for insects, vermin and animals and fly catches. I note that the dictionary mentioned above defines vermin as:

“small animals, collectively esp. insects and rodents that are troublesome to man, domestic animals, etc.”



23. While the physical nature of the respective parties' goods may be different, their purpose is likely to be the same. Insofar as GRP's specification includes traps which kill insects, these simply provide an alternative method of achieving the same result as STV's goods in class 9. As to the goods which remain, these are all designed to allow one to either trap and destroy or trap and release a range of pests. Insofar as the former is concerned, these are, in my view, highly similar goods to those of STV. As to the latter, the goods are likely to be offered as an alternative to those which kill the pest concerned and may be considered to be in competition with the goods of STV. They may also be considered complementary to STV's goods in the sense that the average consumer may well purchase the goods together, only to deploy them in situations when only one of the outcomes mentioned above is required.

24. Turning to GRP's goods in class 5, these are all goods designed to kill pests such as insects and rodents. Although their nature and method of use will be different to STV's goods in class 9, their purpose is ultimately the same; as such they are, in my view, highly similar to STV's goods. This leaves GRP's services in class 37 which are all connected with the control or extermination of pests. While the nature of a service is of course different to a trade in goods, there is in many areas of trade an established, almost symbiotic, relationship between a trade in certain goods and the provision of an associated service; a trade in motor cars and the repair and maintenance of motor cars is a good example. While I must emphasise that I have no evidence to draw upon, it seems to me that GRP's application provides ample support (if indeed support was needed) for the proposition that it would not be unreasonable for an average consumer to assume that a trader in pesticides and devices to control and exterminate pests may also provide a pest control and extermination service. In the circumstances, GRP's services in class 37 would I think be closely associated with STV's goods in class 9 and are in my view similar to STV's goods to a high degree.

**25. In my view GRP's goods and services are for the reasons mentioned above either identical or similar to a high degree to STV's goods.**

**Comparison of trade marks**

26. For the sake of convenience, the trade marks to be compared are as follows:

<b>GRP's published trade mark</b>	<b>STV's trade mark</b>
Strike back	STRIKE 1

27. Before I consider the trade marks in more detail, I must first deal with the form in which GRP's trade mark was captured and subsequently published. I note that on the application form GRP's then professional representatives Pannone LLP wrote (by hand) "Strike back" (i.e. as two separate words with a capital letter S and a lower case letter b). Subsequent correspondence (provided as exhibit RJH-02 to Mr Hawley's witness statement) indicates that Pannone LLP had intended the trade mark to be represented as one word presented in upper case i.e. STRIKEBACK . This view is supported by a letter from Pannone LLP dated 17 July 2007 which accompanied the filing of the Form

TM3 (and which although not in evidence in these proceedings is on the Application file which is open to public inspection) and of which I am prepared to take note. In that letter Pannone LLP say, inter alia:

“Application to register the trade mark STRIKEBACK...”

And:

“Please find enclosed form TM3 applying to register the trade mark STRIKEBACK....”

28. I also note that in the correspondence provided in exhibit RJH-02 (following publication of GRP’s trade mark), the TMR, in a letter dated 20 June 2008 sent to William A Shepherd & Son (GRP’s professional advisers at that time), said inter alia:

“You refer to my assertion that “...the Trade Marks STRIKE BACK and STRIKEBACK have a substantially different identity, however, my conclusion was that the correction does not substantially affect the identity of the mark. This was the basis for my agreement to amend the mark without re-publication or the opening of a fresh opposition period.”

29. Although the above paragraph misrepresents the position slightly, the change from the form in which the trade mark was captured/published i.e. “Strike back” to the form that was intended i.e. “STRIKEBACK” is I accept, and as the TMR indicated above, unlikely substantially to affect the identity of GRP’s trade mark. Both variations consist of the same two well known English dictionary words which would, in my view, be perceived by the average consumer as the words STRIKE and BACK regardless of which of the above presentations was being considered. Having reached that conclusion, it follows that the presentation of GRP’s trade mark would not, in my view, impact to any significant extent on the question of similarity or otherwise with STV’s trade mark; I shall proceed on that basis.

30. It is well established that the average consumer is considered to be reasonably well informed, circumspect and observant. He/she perceives trade marks as a whole and does not pause to analyse their various details; in addition, he/she rarely has the chance to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them he/she has kept in his/her mind. In reaching a conclusion I must also identify what I consider to be the distinctive and dominant components of the respective trade marks.

31. I intend to conduct the comparison on the basis of GRP’s trade mark in the form in which it was published. Although in my view the differences between the two forms of presentation do not change the position, it could be argued that presenting the word Strike as a separate element provides STV with a greater prospect of success than if the two elements were presented as one word in upper case (although they have made no submissions to this effect). If STV do not succeed in relation to GRP’s trade mark

presented as two words, they will be in no better position were the comparison to be made on the basis of GRP's trade mark presented as a single word.

32. The trade marks to be compared are therefore the words Strike and back presented as two separate words, and the word STRIKE presented in upper case together with the numeral 1.

33. Only GRP has commented on the similarity of the respective trade marks. In his witness statement Mr Hawley did so in the following terms:

"11. ..it is undeniable that both comprise two elements, the first of which is the word "strike". However, this in itself is not sufficient to lead to a presumption that there exists a "similar likelihood of confusion".....

12. Although both of the marks feature the word "strike", [GRP] considers it extremely doubtful that such word comprises the "distinctive and dominant component" of the respective trade marks. Rather, the two marks when viewed as a whole form terms which are well-known and readily understood in their own right – with "strike back" meaning counter-attack or retaliate and "strike 1" being (or at least strongly inferring) a reference to a term in baseball relating to the first of three "non-hits" required for a batter to be given out. In more recent years this baseball terminology has entered common and, for that matter, business parlance and has taken on a more general meaning; with the effect that the message behind [STV's] trade mark is that its product provides an effective "one hit" remedy in dealing with the nuisance of insects. Conceptually, therefore, [STV's] trade mark is seen as providing a proactive message, as opposed to the reactive message of the phrase "strike back".

13. Furthermore, the trade marks...have undoubted visual and phonetic differences. [STV's] earlier mark is somewhat unusual in that it comprises an alpha-numeric combination, which contrasts to [GRP's] more conventional word mark. The effect of this upon the eye serves to distinguish and differentiate the two trade marks, as do their respective sounds which (when heard and compared in their entirety) form a markedly different impression upon the ear. This impression is further enhanced by the above-outlined conceptual differences."

### **Visual similarity/Aural Similarity**

34. Both trade marks consist of the word Strike followed by another element. GRP's trade mark consists of ten letters and STV's of six letters and a numeral. In his witness statement Mr Hawley suggest that the combination of the word Strike and the numeral 1 in STV's trade mark is somewhat unusual and that this will assist in differentiating STV's trade mark from GRP's from both an aural and visual perspective. While there is some force to Mr Hawley's arguments, the fact that the word STRIKE is the first word the average consumer will see or articulate in both trade marks suggests to me that there

must be a reasonable degree of visual and aural similarity between the respective trade marks.

### **Conceptual similarity**

35. In relation to this aspect of the comparison, Mr Hawley argues that while both trade marks contain the word STRIKE, it is not the distinctive and dominant component of either trade mark. Rather he suggests that the word will be seen as forming part of a well known phrase. In this regard, he refers to strike back as meaning to counter attack or retaliate and to strike 1 as a reference to a term used in baseball which he says has entered both common and business parlance (an assertion for which no evidence has been provided). While I am prepared to accept that the average consumer may attribute one of the meanings Mr Hawley suggests to the combination strike back, there is no evidence to support his assertion that the average consumer would be aware of the baseball reference to which Mr Hawley refers and the conceptual image he says it will trigger (notwithstanding the dictionary definition for the word STRIKE contained in Collins English Dictionary at entry No 39 i.e. "Baseball; a pitched ball judged good but missed or not swung at, three of which cause a batter to be out".) If Mr Hawley is correct there would be conceptual dissonance between the respective trade marks. However, for the average consumer who is not familiar with the combination strike 1 in the context Mr Hawley suggests, there would be neither conceptual similarity or conceptual dissonance.

### **Likelihood of confusion**

36. In determining whether there is a likelihood of confusion, a number of factors need to be borne in mind. The first is the interdependency principle i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the goods and services and vice versa. It is also necessary for me to consider the distinctive character of STV's STRIKE 1 trade mark, as the more distinctive this trade mark is (either inherently or as a result of any use that has been made of it), the greater the likelihood of confusion. The distinctive character of the STRIKE 1 trade mark must be appraised by reference to the goods in respect of which it is registered and also by reference to the way it will be perceived by the average consumer. I must also keep in mind the average consumer for the goods and services as well as the nature of the purchasing process.

37. STV's trade mark is as described above. Regardless of whether the average consumer is familiar with the baseball reference to which Mr Hawley refers, there is certainly no evidence or submissions to suggest that STV's trade mark has any direct reference to the goods for which it stands registered. While the word STRIKE may be seen as an indirect reference to the mounting of an attack on the insects the goods are designed to kill, this is at best an indirect reference and does nothing in my view to diminish the capacity of STV's trade mark to identify their goods. As such, it is a trade mark which, absent use (no evidence of its use having been provided), is deserving of a reasonable (but not the highest) level of protection.

38. In summary, I have concluded that: (i) the respective goods and services at issue are either identical or similar to a high degree, (ii) there is a reasonable degree of visual and aural similarity, (iii) depending on how the trade marks are perceived there may be either conceptual dissonance or no conceptual similarity or dissimilarity, and (iv) that STV's trade mark is deserving of a reasonable level of protection. I have also concluded, given the nature of the goods and services at issue, that the visual aspect of the comparison is likely to be the most important, while recognising that telephone orders and word of mouth recommendations will also play a part in the selection process.

39. I must now apply the global approach advocated to these findings to determine whether direct confusion (where one trade mark is mistaken for the other) or indirect confusion (where the goods would be assumed to come from economically linked undertakings) is likely to occur. Having done so, I have concluded that the differences in the respective trade marks when considered in the context of the traits that the average consumer will display when selecting such goods and services are likely to mitigate against the respective trade marks being mistaken for one another. However, bearing all the same factors in mind including the proximity in the goods and services at issue, there is in my view a real likelihood that the average consumer will assume that the goods and services of GRP are those of STV either being sold by them under a variant brand or coming from an undertaking linked to them. That conclusion is sufficient for STV's opposition to succeed in its entirety.

### **Costs**

40. As the opposition has succeeded STV are entitled to a contribution towards their costs. Awards of costs are governed by Annex A of Tribunal Practice Notice (TPN) 4 of 2007. I note that other than filing their Notice of Opposition, STV have taken no part in these proceedings. Keeping that in mind and using the TPN as a guide, I award costs to STV on the following basis:

Preparing a statement and considering GRP's counterstatement:	£200
Official fees:	£200
<b>Total:</b>	<b>£400</b>

41. I order Grp 55 Limited to pay to STV International Limited the sum of £400. This sum is 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. In the event of a successful appeal, the TMR will need to ensure that the presentation of GRP's trade mark is corrected prior to its registration.

**Dated this 17<sup>th</sup> day of April 2009**

**C J BOWEN  
For the Registrar  
The Comptroller-General**