

BL NO. O/344/11

**TRADE MARKS ACT 1994**

**IN THE MATTER OF TRADE MARK APPLICATION No. 2554507  
IN THE NAME OF ROBERT McBRIDE LTD FOR THE TRADE MARK**

**PLANET CLEAN**

**IN CLASSES 3 AND 5**

**AND IN THE MATTER OF AN OPPOSITION UNDER NO 101343  
BY PLANET CLEAN INTERNATIONAL INC.**

## **TRADE MARKS ACT 1994**

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In the name of Robert McBride Ltd for the trade mark**

## **PLANET CLEAN**

and

**IN THE MATTER OF an opposition thereto under No. 101343 by Planet  
Clean International Inc.**

### **BACKGROUND AND PLEADINGS**

1. On 29<sup>th</sup> July 2010 Robert McBride Ltd ('RM') applied for registration of the sign PLANET CLEAN in relation to the following goods:

**Class 03:**

Bleaching, cleaning, scouring, polishing, abrasive and laundry preparations; washing preparations, detergents; shampoos, soaps, lotions, milks, creams, powders, conditioners and oils for personal use; perfumery, deodorants, cosmetics, essential oils, toilet preparations and preparations for the hair and skin; dentifrices; mouthwashes.

**Class 05:**

Pharmaceutical, sanitary preparations; disinfectants; air freshening preparations; sterilising solutions.

2. The application was allocated number 2554507 and was published in the Trade Marks Journal on 29<sup>th</sup> October 2010. On 24<sup>th</sup> December 2010 Planet Clean International Inc ('PC') opposed the application on the sole ground of section 3(1)(b) of The Trade Marks Act 1994 ('the Act').
3. The statement of grounds says the application is devoid of distinctive character in relation to all the goods for which registration is sought. Specifically, the sign applied for is not "capable of leaving an impression" on the average consumer (see, eg General Court Case T 128/01 Daimler Chrysler), and thus, of fulfilling the "primary function of a trade mark which is to enable the consumer to repeat a positive purchasing experience or avoid a negative one". The sign in question is not possessed of the minimum degree of distinctive character and there is no reasonable possibility that the typical consumer will establish a connection between the products and the manufacturer. Such a consumer will just see the sign as an "essentially

generic indication”. The sign is banal and used by others in relation to similar goods and related services and is viewed by consumers as an obvious designation of characteristics of those goods.

4. Further, in support of the grounds of opposition PC supplied an examination decision from OHIM in relation to application 006600712, as well as a decision of the Second Board of Appeal ('BoA') (R 1425/2009-2 dated 27<sup>th</sup> May 2010) at OHIM in relation to this application. This OHIM application, in respect of the words 'PLANET CLEAN', had been made by PC itself, but was refused protection by OHIM, a decision approved of by its BoA. In contrast to this application for goods however, the application before OHIM had been made in respect of services in classes 35, 37 and 41.
5. In its decision the BoA held that the sign 'PLANET CLEAN' was made up of two common English words, and thus the question of distinctiveness had to be judged in relation to the English speaking public. The BoA went on to divide up the services applied for, saying that ,as regards certain services (primarily business based and instructional/educational) in classes 35 and 41, the words 'PLANET CLEAN' would be:

“easily understood by the relevant public as an informative message as regards the fact that the services offered are aimed at, or directly connected to, as the subject of the service, to environmental factors, in other words to preventing our planet from being polluted, or at least, at maintaining our planet as uncontaminated as possible” (para 15).
6. As regards the remainder of the services (being primarily the provision of specific sanitation and/or janitorial services), the sign would make a clear, direct and obvious reference to the fact the services offered are, in and of themselves, “environmentally friendly, are provided in an environmentally friendly way or by taking environmental factors into account”.
7. In summary, at para 18 of its decision the BoA say the sign applied for would be immediately understood simply as an informative and laudatory promotional statement, with the purpose of informing the consumer that the services are offered in the context of environmental friendliness. The BoA concede an English speaking person would generally say 'clean planet', but go on to say the inversion of words, in effect, “comprises a mere juxtaposition rather than a linguistic error, strictly speaking”. Such a “minimal difference cannot have any influence on the perception created by the two terms which make up the mark, and thus is not likely to obscure the message clearly and directly conveyed (see, eg 'Golf USA' at para 50)”.
8. The BoA then proceeded to reject arguments based on other registered 'comparable marks' at OHIM, as well as the fact the sign before it was registered in Canada.

9. PC say in its submissions that although the OHIM decision was in relation to services, the same rationale can also be applied to goods. This is based upon the *nature* of the goods, being such that they are, in themselves, environmentally friendly (eg soaps, abrasive particles, anti-microbial agents, powdered cleaners, carpet and upholstery cleaners) and will function in a clean and environmentally friendly way and/or by taking environmental factors into account. PC say such goods are to be regarded as 'similar' to cleaning services, as per the TREAT case [1997] ETMR 118 and CANON (Case C-39/97) tests based on, eg nature, intended purpose and complementarity of the goods and services.
10. A counterstatement and later submissions were filed by RM which asserted the sign applied for is capable of fulfilling the essential purpose of a trade mark; that it had sufficient distinctive character and that the OHIM decision was irrelevant to these proceedings or otherwise non-binding. It also noted the OHIM decision was rendered in respect of services rather than goods, in respect of which its own application had been made, this point being addressed as above by PC.
11. Evidence was filed by the opponent which, insofar as it is factually relevant I shall summarise below. Submissions were also filed by both parties which I shall take into account in my decision. Neither party requested to be heard and so this decision is based on a careful reading of the papers.

### **Opponent's evidence**

12. This comprises a witness statement dated 23<sup>rd</sup> May 2011 from Claire Sugden, a registered trade mark attorney with Boulton Wade Tennant, acting for PC. Exhibit CLS1 comprises a search of the internet using the words "PLANET" and "CLEAN". The search appears to have been conducted on 19<sup>th</sup> April 2011. It shows the first page of results, comprising 15 hits.
13. The first hit is the opponent's own website at [www.planetclean.com](http://www.planetclean.com). It is plain from this hit the opponents use the word 'PLANETCLEAN' (conjoined) as a trade mark (ie, in the sentence, "**Planetclean** (in bold) is your #1 distributor of cleaning supplies...." ) with the word 'Planetclean' being followed by the 'R' in a circle symbol. It supplies cleaning supplies, janitorial supplies, cleaning equipment and offer green cleaning products and training.
14. A further relevant hit is [www.planetclean.co.uk](http://www.planetclean.co.uk) . The company responsible for this site is described as "a new company basing its expertise on 10 years experience in the processing and material reclaiming of oil filters...."
15. There is also [www.myplanetclean.com](http://www.myplanetclean.com), being the "First Coasts premier certified green house cleaning service. Currently serving Saint Augustine, Jacksonville and Gainesville.... "

16. There is a book for sale from [www.amazon.co.uk](http://www.amazon.co.uk) , “Clean House Clean Planet Clean your house for Pennies a Day” and lyrics from a song by Agent Steel, entitled “Wash the Planet Clean”. There is reference to the United Nations Environment Programme’s flagship magazine, “Our Planet: Clean Tech: Low Carbon: High Growth”. Finally, there are a couple of ‘conversational’ references to the words PLANET CLEAN found on [d4gamers.com](http://d4gamers.com) and [www.activeboard.com](http://www.activeboard.com). These appear in the context of larger sentences referring, eg to ‘keeping our planet clean’.
17. Exhibit CLS1 then displays pages from the actual websites of some of the above hits referred to above, as well as some others. The opponent’s website emphasises the trade mark nature of the words ‘PLANET CLEAN’ and shows the opponent to be, amongst other things, a member of the Canadian Franchise Association.
18. There are pages relating to a ‘Clean Planet Programme’, being an initiative taken by Konica/Minolta recognising its responsibility towards the environment, in connection in particular with the recycling of toner cartridges. A page from [www.planetclean.co.uk](http://www.planetclean.co.uk) shows the company responsible to process and reclaim material from oil filters. The pages from [www.myplanetclean.com](http://www.myplanetclean.com) show this to be an American company dedicated to green principles and practices, including the non-use of toxic cleaners. The web page contains a certification mark by the ‘Green Clean Institute’.
19. There is a page from the applicant’s website, [www.planet-clean.co.uk](http://www.planet-clean.co.uk). This site was under construction at the time but it shows the products bearing the words ‘PLANET GREEN’, together with a logo. As the evidence has been faxed I am unable to make out the logo. The products are described as “Specially formulated cleaning products designed to limit the impact on the environment without compromising performance” and that they perform “as good as or better than the leading ECO brand”. There is also a page from [www.mcbride-direct.co.uk](http://www.mcbride-direct.co.uk), showing examples of the applicant’s products for sale under the PLANET CLEAN sign. For example, there is a PLANET CLEAN fabric conditioner, a PLANET CLEAN non-bio liquid wash and a PLANET CLEAN multi- surface cleaner.
20. A page from [www.amazon.co.uk](http://www.amazon.co.uk) shows the book referred to earlier, by its author, K Logan. There is, then, a FACEBOOK based campaign called” KEEP THE PLANET CLEAN. IT’S NOT URANUS”. There is also a page from [www.sonorannews.com](http://www.sonorannews.com), described as the “Conservative voice of Arizona” with a blog entitled “ Keep your kids safe and our planet clean by recycling your car seat”. Finally, there are pages from blog sites, [d4gamers.com](http://d4gamers.com) and [activeboard.com](http://activeboard.com), both making reference in blog posts to ‘keeping the planet clean’.

21. Exhibit CLS2 shows the results of a MARQUESA trade mark search in classes 3 and 5 for marks on the UK and OHIM registers, containing either the word 'PLANET' or the word 'CLEAN'. 43 registered trade marks contain the word 'PLANET', 173 contain the word 'CLEAN' and 7 pending marks also contain the word 'CLEAN'. Many of them cover cleaning products. From this, Ms Sugden submits that 'PLANET' has a 'common nature' which, in conjunction with the non-distinctive word 'CLEAN' means the mark as a whole is also non-distinctive for goods in classes 3 and 5.

## **DECISION**

### **The law**

22. Although the sole ground of opposition is based upon section 3(1) (b) I find it convenient to recite the whole of section 3 which reads:

“3. - (1) The following shall not be registered –

(a) ...

(b) trade marks which are devoid of any distinctive character,

(c) trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of services, or other characteristics of goods or services,

(d) trade marks which consist exclusively of signs or indications which have become customary in the current language or in bona fide and established practices of the trade.

Provided that, a trade mark shall not be refused registration by virtue of paragraph (b), (c) or (d) above if, before the date of application for registration, it has in fact acquired a distinctive character as a result of the use made of it.

### **Section 3(1)(b)**

23. PC has opposed on the sole ground of section 3(1)(b). The relationship between 3(1)(b) and the other grounds under section 3 has been commented on many times in the past.<sup>1</sup> In essence, it is the broadest ground of objection, encompassing (c) and (d), but also broader in scope than both (c) and (d).

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<sup>1</sup> Most recently, see, eg, para 19 of *BL O-313-11, 'FLYING SCOTSMAN'*, a decision of the Appointed Person

24. The nature of the objection under section 3(1)(b) is that the sign applied for is devoid of distinctive character. The law in relation to section 3(1)(b) is conveniently summarised in paras 29 to 37 and 45 of the Judgment of the Court of Justice in Case C-265/09 P *OHIM v. BORCO-Marken-Import Mathiesen GmbH & Co. KG (the Greek letter 'a')* [2010] ECR I-00000:

29. However, the fact that a sign is, in general, capable of constituting a trade mark does not mean that the sign necessarily has distinctive character for the purposes of Article 7(1)(b) of the regulation in relation to a specific product or service (Joined Cases C-456/01 P and C-457/01 P *Henkel v. OHIM* [2004] ECR I-5089, paragraph 32).

30. Under that provision, marks which are devoid of any distinctive character are not to be registered.

31. According to settled case-law, for a trade mark to possess distinctive character for the purposes of that provision, it must serve to identify the product in respect of which registration is applied for as originating from a particular undertaking, and thus to distinguish that product from those of other undertakings (*Henkel v. OHIM*, paragraph 34; Case C-304/06 P *Eurohypo v. OHIM* [2008] ECR I-3297, paragraph 66; and Case C-398/08 P *Audi v. OHIM* [2010] ECR I-0000, paragraph 33).

32. It is settled case-law that that distinctive character must be assessed, first, by reference to the goods or services in respect of which registration has been applied for and, second, by reference to the perception of them by the relevant public (*Storck v. OHIM*, paragraph 25; *Henkel v. OHIM*, paragraph 35; and *Eurohypo v. OHIM*, paragraph 67). Furthermore, the Court has held, as OHIM points out in its appeal, that that method of assessment is also applicable to an analysis of the distinctive character of signs consisting solely of a colour per se, three-dimensional marks and slogans (see, to that effect, respectively, Case C-447/02 P *KWS Saat v. OHIM* [2004] ECR I-10107, paragraph 78; *Storck v. OHIM*, paragraph 26; and *Audi v. OHIM*, paragraphs 35 and 36).

33. However, while the criteria for the assessment of distinctive character are the same for different

categories of marks, it may be that, for the purposes of applying those criteria, the relevant public's perception is not necessarily the same in relation to each of those categories and it could therefore prove more difficult to establish distinctiveness in relation to marks of certain categories as compared with marks of other categories (see Joined Cases C-473/01 P and C-474/01 P and C-474/01 P *Procter & Gamble v. OHIM* [2004] ECR I-5173, paragraph 36; Case C-64/02 P *OHIM v. Erpo Möbelwerk* [2004] ECR I-10031, paragraph 34; *Henkel v. OHIM*, paragraphs 36 and 38; and *Audi v. OHIM*, paragraph 37).

34. In that regard, the Court has already stated that difficulties in establishing distinctiveness which may be associated with certain categories of marks because of their very nature – difficulties which it is legitimate to take into account – do not justify laying down specific criteria supplementing or derogating from application of the criterion of distinctiveness as interpreted in the case-law (see *OHIM v. Erpo Möbelwerk*, paragraph 36, and *Audi v. OHIM*, paragraph 38).

35. It is apparent from the case-law of the Court on Article 3 of Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relative to trade marks (OJ 1989 L 40, p.1), the wording of which is identical to that in Article 7 of Regulation No. 40/94, that the distinctive character of a mark must always be assessed specifically by reference to the goods or services designated (see, to that effect, *Libertel*, paragraph 76, and Case C-363/99 *Koninklijke KPN Nederland* [2004] ECR I-1619, paragraphs 31 and 33).

36. As the Advocate General observed at point 47 of his Opinion, the requirement of an examination as to whether, on the facts, the sign in question is capable of distinguishing the goods or services designated from those of other undertakings, allows for the accommodation of the ground for refusal laid down in Article 7(1)(b) of Regulation No. 40/94 with the general capacity of a sign to constitute a trade mark recognised in Article 4 thereof.



37. In that regard, it should be pointed out that, even though it is apparent from the case-law cited that the Court has recognised that there are certain categories of signs which are less likely *prima facie* to have distinctive character initially, the Court, nevertheless, has not exempted the trade mark authorities from having to carry out an examination of their distinctive character based on the facts.

...

45. As is clear from the case-law of the Court, the examination of trade mark applications must not be minimal, but must be stringent and full, in order to prevent trade marks from being improperly registered and, for reasons of legal certainty and good administration, to ensure that trade marks whose use could be successfully challenged before the courts are not registered (see, to that effect, *Libertel*, paragraph 59, and *OHIM v. Erpo Möbelwerk*, paragraph 45).

25. In substance, what matters for the purposes of the required assessment is whether, from the perspective of the relevant average consumer, the sign in question would serve to individualise the goods or services in question to a single economic undertaking. There should be a '*stringent and full*' examination of its power to do so '*based on the facts*' as they appear to be.

26. PC's case is essentially based upon the same rationale as that used by OHIM and its BoA in refusing protection for the same sign. Before I consider that rationale and, of course, the evidence provided in this case, it is as well to consider what effect the OHIM finding may have as regards this decision.

27. In BL O-201-04, *ZURICH PRIVATE BANKING*, a decision of the Appointed Person, it was said:

"However, the position as between different national registries and the Community Trade Marks Office is that they are not competent to adjudicate on the correctness of each other's determinations and, as a corollary of that, not required to treat each other's determinations as binding upon them in the independent exercise of their own powers. That is not to say that each of them should or will simply ignore the determinations of the others. The general principle is that each of them should give determinations of the

others such weight (if any) as they might fairly and properly be said to bear in the decision-taking processes they are required to undertake independently of one another.”

28. I intend to follow that approach and for that reason I have set out at some length the rationale followed by the BoA in its own decision.
29. As I have said, in summary, at para 18 the BoA say the sign ‘PLANET CLEAN’ would, for the services applied for, be immediately understood simply as an informative and laudatory promotional statement, with the purpose of informing the consumer that the services are offered in the context of environmental friendliness.
30. The Board conceded an English speaking person would generally say ‘clean planet’, but went on to say the inversion of words, in effect, “comprises a mere juxtaposition rather than a linguistic error, strictly speaking”. Such a “minimal difference cannot have any influence on the perception created by the two terms which make up the mark and thus is not likely to obscure the message clearly and directly conveyed (see, eg ‘Golf USA’ at para 50)”. In essence, then, the BoA equated the sign ‘PLANET CLEAN’, linguistically, to the previously refused sign, ‘Golf USA’.
31. It seems to me the BoA’s approach comes close to a ruling on a minimum level of distinctiveness, eschewed by the UK authorities<sup>2</sup>. Alternatively, it comes close to the application of a rule-based approach, whereby a ‘mere juxtaposition’, as distinct from a ‘linguistic error’, is only (ever) likely to have minimal effect in terms of obscuring any meaning.
32. In my view, what matters is *only* whether the sign applied for possesses distinctive character, being the capacity to serve the essential function as a trade mark. This does not require any evaluation as to what may be a minimum level of distinctiveness. As to the BoA’s approach, on a purely technical level I have difficulty in treating a ‘mere juxtaposition’ as anything other than a particular class of ‘linguistic error’. The two cannot be distinguished in my view. This is not to say, of course, that in all cases a juxtaposition, or another ‘species’ of linguistic error for that matter, will (or will not) necessarily imbue or endow the sign with distinctive character, enabling it to have the capacity to function as a trade mark. Each case must be judged on its merits.
33. Having decided the sign comprises a ‘mere’ juxtaposition, the BoA further concluded that such a combination has only minimal effect in terms of obscuring the obvious and immediately apparent message behind the words.

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<sup>2</sup> See, eg, para 19 of the *FLYING SCOTSMAN* case, *supra*, relying on CJEU Case C-104/00 *COMPANYLINE*

That message is said, by the BoA, to be no more than an ‘informative and laudatory promotional statement’, that the services are offered in the context of environmental friendliness.

34. As is plain from the evidence, the fact its products are environmentally friendly is indeed the message intended by RM (para 19 above), but this, *of itself*, does not render the words ‘PLANET CLEAN’ necessarily devoid of distinctive character. In this regard, case law is clear that even promotional, informative or laudatory messages, whether they be clear or obscure, may function as trade marks<sup>3</sup>.
35. In my view, I do not believe the words ‘PLANET CLEAN’ are the linguistic equivalent of ‘Golf USA’, nor are they, as claimed by PC, either otherwise simply ‘banal’ or ‘generic’. ‘Golf USA’ comprises a potentially entirely descriptive term, followed by a well known and large geographical and economic indicator.
36. Whether the average consumer is other businesses (as, at least partially, in the case before OHIM) or the general public, as in this case, I think the word ‘PLANET’ alone would instantly strike that consumer as being somewhat ‘out of place’ in terms of being descriptive, laudatory or otherwise providing information in relation to the relevant goods. These are, for the most part, mundane cleaning products used for local and small scale chores; at the most literal level, such goods have no application as far as any ‘planet’ may be concerned.
37. Plainly however, the BoA considered the words ‘PLANET CLEAN’ to be no more than a synonym for ‘environmentally friendly’, or that the relevant services are provided in an ‘environmentally friendly way or by taking environmental factors into account’. Respectfully, I do not agree with this. At most, in my initial view, the words ‘PLANET CLEAN’ *allude* to, or *evoke*, environmental friendliness, without being specific enough to render the sign devoid of distinctive character, whether in relation to services or goods.
38. I have, of course, the opportunity to test this initial view against the evidence filed. Clearly, if that evidence shows the words ‘PLANET CLEAN’ being used by other traders in a laudatory, descriptive, informative, banal or generic fashion then this is going to assist in demonstrating that the sign is, despite my initial view above, devoid of distinctive character. Even if the words are in general use (other than by traders), then this too may help to indicate how the perceptions of the average consumer may be conditioned towards the view that the sign is devoid of distinctive character.

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<sup>3</sup> See, eg the discussion at paras 44-51 of CJEU Case C-398/08P *VORSPRUNG DURCH TECHNIK*.

39. On consideration, however, my view is the evidence filed by the opponent actually points in the opposite direction to what it intended. That is to say, in my view, the evidence discloses four clear instances of *trade mark use* of the words 'PLANET CLEAN'. Specifically, the opponent itself is using the sign in a way which will be perceived as a trade mark, I assume by the Canadian average consumer. Thus, the website contains the opening sentence, "Welcome to our Planet Clean ® Janitors' warehouse website....." I do not believe the average consumer would view the words 'Planet Clean' as anything other than as a company name and trade mark.
40. The UK firm in the business of recycling car and commercial vehicle oil filters, with its [www.planetclean.co.uk](http://www.planetclean.co.uk) site is, likewise, using the sign in a trade mark sense, in other words, in a way which will designate origin. Thus, the sign is in the following sentence, "Planet Clean is a new company basing its expertise on 10 years experience in the processing and material reclaiming of oil filters." There is no other way the consumer would interpret such a sentence, other than that the words 'Planet Clean' are being used as the company name and as a trade mark.
41. The American company operating a house cleaning service at [www.mypplanetclean.com](http://www.mypplanetclean.com) is similarly using the sign in such a way as to designate origin. Thus, the words appear in the following sentence, " Planet Clean is proud to be part of a growing number of businesses committed to green [sic] principals and practices....." Again, there is no other way the consumer would see those words, other than that they represent the company name and trade mark.
42. Finally, the applicant itself at [www.planet-clean.co.uk](http://www.planet-clean.co.uk) and [www.mcbride-direct.co.uk](http://www.mcbride-direct.co.uk) is using the sign in a manner which will also designate origin. That is to say, the products sold are designated with the words, eg "Planet Clean Fabric Conditioner" etc, without any other verbal content which may serve to indicate origin. On seeing such a designation, the average consumer will, in my view, perceive the words 'Planet Clean' as serving to indicate the origin of the product and not a characteristic, as in, eg 'environmentally friendly fabric conditioner'.
43. That leaves me with:- the book title, the song lyrics, the blog references, the magazine and the corporate programme in connection with toner cartridges. All such use is, essentially, of an editorial nature, placing the sign in a broader, and recognisably editorial or conversational context, such as in the sentence, 'keeping the planet clean'. Such use would be understood by the consumer to be editorial in nature and not intended to convey any message as to origin. Furthermore, of course, such use cannot be said to be of the sign, 'PLANET CLEAN' (solus), as filed.

44. Insofar as the searches of the UK and OHIM registers are concerned, these do not make the case that the sign is devoid of distinctive character either. Such evidence must be treated as 'state of the register' evidence which has consistently been rejected as not necessarily reflecting the true position in the market place. If these searches can be said to show anything at all, it is that the respective registrars in the UK and at OHIM are, following their obligatory stringent examinations (para 25 above), quite content to allow marks containing the word 'planet' onto their respective registers for these types of goods on the basis they consider them to meet the absolute requirements for registration.
45. In all the circumstances, and based on the evidence as filed and the rationale in the BoA case, I find that this sign is **not** devoid of distinctive character and the opposition must accordingly fail in its entirety.
46. I should add, for the sake of clarity and completeness, that the fact I have not accorded the BoA decision much, if any, weight is specifically *not* because this application is in relation to goods and the sign before OHIM was in relation to services. The rationale used by OHIM, had I accepted it to be sound, would in my view have applied both to goods and services equally. That is to say, the quality of 'environmental friendliness' is one, in theory, which would be equally applicable to either goods or services.
47. In all the circumstances, however, the opposition under section 3(1)(b) has, in any event, failed.

### **Costs**

48. Robert McBride Ltd has been totally successful in defending against this opposition and is entitled to a contribution towards its costs. I take into account this decision has been reached without a hearing and neither party sought costs off the normal scale. In the circumstances I award Robert McBride Ltd the sum of £1000 as a contribution towards the costs of the proceedings. The sum is calculated as follows:

1. Preparing counterstatement and considering statement of case - £400
2. Considering evidence - £300
3. Filing submissions - £300

Total £1000

49. I order Planet Clean International Inc to pay Robert McBride Ltd the sum of £1000. The sum should 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 11 day of October 2011**

**Edward Smith  
For the Registrar  
The Comptroller-General**