BL O/0460/24

IN THE MATTER OF THE TRADE MARKS ACT 1994

IN THE MATTER OF TRADE MARK APPLICATIONS NOS. 3605329 & 3605293

BY MR AMRITPAL CLAIRE FOR THE TRADE MARKS

&

Designer Money

IN CLASS 25

AND THE OPPOSITIONS THERETO UNDER NO. 425707 & 425708

BY MONEY INDUSTRIES LIMITED

AND IN THE MATTER OF AN APPEAL FROM THE DECISION OF BEVERLEY HEDLEY (O/1054/23) DATED 6 NOVEMBER 2023.

DECISION

Introduction

1. This is an appeal by Mr Amritpal Claire ("**Appellant**") from decision O/1054/23 of Ms B. Hedley ("**Decision**") concerning the opposition by Money Industries Limited ("**Respondent**") to the Appellant's applications for the word mark DESIGNER MONEY and the figurative mark shown below ("**Applications**"), applied for on 5 March 2021 in respect of *clothing* in class 25.

2. The Appellant opposed the Application under section 5(2)(b) of the Trade Marks Act 1994. The Appellant relied upon two mark registrations, however as the marks and goods covered by

those registrations are identical, the Hearing Officer based her considerations on only one of the marks, details of which are set out below:

Number	**Mark**	**Filing and registration date**	**Goods**
UK3251218		18/08/2017, 24/11/2017	Class 25: *Clothing, [and other goods].*

3. I shall refer to the above as the "**Earlier Mark**".

4. A hearing took place on 27 June 2023, at which the Appellant represented himself. The Respondent did not attend the hearing but filed written submissions in lieu. In the Decision, B. Hedley for the Registrar held that the oppositions were successful.

5. On 24 November 2023 the Appellant filed a Notice to Appeal to the Appointed Person against the Decision under Section 76 of the Trade Marks Act 1994.

The Hearing Officer's decision

6. The Hearing Officer held as follows (in summary, and insofar as is relevant to this appeal):

   a. The average consumer is a member of the general public, exercising a medium degree of attention;

   b. The purchasing act will be primarily visual, but there may also be an aural aspect, since the goods may sometimes be the subject of discussions with sales representatives, for example;

   c. The Earlier Mark is inherently distinctive to a normal degree, with no enhanced level of distinctiveness through use;

   d. There is a medium degree of visual similarity, a medium degree of aural similarity and a high degree of conceptual similarity between each of the Applications and the Earlier Mark;

   e. The goods in question are identical;

   f. There is no likelihood of direct confusion, however the average consumer is likely to believe that the respective goods come from the same or linked undertaking(s). There is accordingly a likelihood of indirect confusion in respect of both of the Applications, and the oppositions therefore succeeded in full.

Grounds of Appeal

7. The Grounds of Appeal are written in narrative form. I discerned the following discrete grounds, which the Appellant confirmed during the hearing represent an accurate summary of his criticisms of the Decision:

   a. **Ground 1:** the Hearing Officer wrongly dissected the Applications, whereas she should have considered each as a whole.

b. **Ground 2:** the Hearing Officer failed to consider the similarity of the marks from the perspective of close range.

c. **Ground 3:** the Hearing Officer wrongly held that the word "Designer" was used in a descriptive manner in the Applications.

d. **Ground 4:** the Hearing Officer wrongly failed to take into account the different styles (including font and layout) used by the Appellant in the Applications.

e. **Ground 5:** the addition of the word "Designer" is not such as to bring this case within the scope of indirect confusion as set out in the *L.A. Sugar* decision relied upon by the Hearing Officer.

f. **Ground 6**: the Hearing Officer failed to take into account that the Earlier Mark represents an unknown brand, and therefore the general public would not make assumptions as to association with the Applications.

g. **Ground 7**: the Appellant was not previously aware of the Earlier Mark until after he had filed his Applications.

8. Mr Claire expanded upon the above at the hearing, and I set out below further details as are necessary to understand my overall conclusions. The Respondent did not file a Respondent's notice or skeleton argument and did not attend the hearing.

Standard of review

9. The approach to be adopted in an appeal hearing has been laid down a number of times in case law. It was recently summarised in *Axogen v Aviv* [2022] EWHC 95 (Ch) at §24-25:

"Appellate Function

24. Although I was referred to numerous cases on the subject (including *English v Emery Demibold & Struck Ltd* [2002] 1 WLR 2409, *REEF Trade Mark* [2003] RPC 5, *Fine & Country Ltd v Okotoks Ltd* [2014] FSR 11, *Fage UK Ltd v Chobani UK Ltd* [2014] EWCA Civ 5, *Shanks v Unilever Plc* [2014] RPC 29, *TT Education Ltd v Pie Corbett Consultancy* [2017] RPC 17, *Apple Inc v Arcadia Trading Limited* [2017] EWHC 440 (Ch), *Actavis Group PTC v ICOS Corporation* [2019] UKSC 1671 and *NINEPLUS* O/039/21), the approach of the appeal court to a statutory appeal under section 76(1) of the TMA is uncontroversial. I bear the following principles, relevant to the issues before me, firmly in mind:

i) The appeal is by way of a review, not a rehearing (see *TT Education Ltd v Pie Corbett Consultancy Ltd* (O/017/17) at [52(i)]);

ii) The appeal court will allow an appeal where the decision of the lower court was "wrong" (see CPR 52.11). Neither surprise at a Hearing Officer's conclusion, nor a belief that he or she has reached the wrong decision suffices to justify interference (*NINEPLUS* O/039/21 at [14]);

iii) The decision of the lower court will be "wrong" if the judge makes an error of law, which might involve asking the wrong question, failing to take account of relevant matters or taking into account irrelevant matters. Absent an error of law, the appellate court would be justified in concluding that the decision of the lower court was wrong if the judge's conclusion was "outside the bounds within which reasonable disagreement is possible" (*Actavis Group* at [81]);

iv) The approach required by the appeal court depends on a number of variables including the nature of the evaluation in question (*REEF Trade Mark* [2003] RPC per at [26]). There is a "spectrum of appropriate respect for the Registrar's determination depending on the nature of the decision" (*TT Education* at [52(ii)]), with decisions of primary fact at one end of the spectrum and multi-factorial decisions (of the type which the parties agree were made in this case by the Hearing Officer) being further along the spectrum.

v) In the case of a multifactorial assessment or evaluation, involving the weighing of different factors against each other, the appeal court should show a real reluctance, but not the very highest degree of reluctance, to interfere in the absence of a distinct and material error of principle. Special caution is required before overturning such decisions (*TT Education* at [52(iv)], *REEF* at [28] and *Fine & Country* at [50]-[51]).

vi) An error of principle is not confined to an error as to the law but extends to certain types of error in the application of a legal standard to the facts in an evaluation of those facts. The evaluative process is often a matter of degree upon which different judges can legitimately differ and an appellate court ought not to interfere unless it is satisfied that the judge's conclusion is outside the bounds within which reasonable disagreement is possible (*Actavis Group* at [80]).

vii) Another variable to be taken into account will be "the standing and experience of the fact-finding judge or tribunal" (*REEF* at [26], *Actavis Group* at [78]). Expert tribunals are charged with applying the law in the specialised fields and their decisions should be respected unless it is quite clear that they have misdirected themselves in law. Appellate courts should not rush to find such misdirections simply because they might have reached a different conclusion on the facts (*Shanks* at [28] citing the warning given by Baroness Hale in *AH (Sudan) v Secretary of State for the Home Department* [2007] UKHL 49).

viii) The appellate court should not treat a judgment as containing an error of principle simply because of its belief that the judgment or decision could have been better expressed; "The duty to give reasons must not be turned into an intolerable burden" (see *REEF* at [29]). The reasons need not be elaborate. There is no duty on a judge, in giving her reasons, to deal with every argument presented by counsel in support of his case. It is sufficient if what she says shows the basis on which she has acted (*English* at [17], *Fage* at [115]). The issues the resolution of which were vital to the judge's conclusions should be identified and the manner in which she resolved them explained (*English* at [19]).

ix) In evaluating the evidence, the appellate court is entitled to assume, absent good reason to the contrary, that the first instance judge has taken all of the evidence into account (*TT Education* at [52(vi)]).

25. In the context of appeals relating to the likelihood of confusion, an evaluative issue described by Mr Iain Purvis QC sitting as an Appointed Person in *ROCHESTER Trade Mark* BL O/049/17 at [31] as "indeterminate and open to debate", Mr Purvis QC went on to say this at [33]:

"…the reluctance of the Appointed Person to interfere with a decision of a Hearing Officer on likelihood of confusion is quite high for at least the following reasons:

(i) The decision involves the consideration of a large number of factors, whose relative weight is not laid down by law but is a matter of judgment for the tribunal on the particular facts of each case

(ii) The legal test 'likely to cause confusion amongst the average consumer' is inherently imprecise, not least because the average consumer is not a real person

(iii) The Hearing Officer is an experienced and well-trained tribunal, who deals with far more cases on a day-to-day basis than the Appellate tribunal

(iv) The legal test involves a prediction as to how the public might react to the presence of two trade marks in ordinary use in trade. Any wise person who has practised in this field will have come to recognize that it is often very difficult to make such a prediction with confidence. Jacob J (as he then was) made this point in the passing off case *Neutrogena v Golden* [1996] RPC 473 at 482:

'It was certainly my experience in practice that my own view as to the likelihood of deception was not always reliable. As I grew more experienced I said more and more "it depends on the evidence."'

Any sensible Appellate tribunal will therefore apply a healthy degree of self-doubt to its own opinion on the result of the legal test in any particular case.

34. I shall therefore approach this appeal on the basis that in the absence of a distinct and material error of principle, I ought not to interfere with the decision of the Hearing Officer unless I consider that his view on the issue of likelihood of confusion was clearly wrong in the sense that it was outside the range of views which could have been reasonably taken on the established facts."

10. I shall bear all the above in mind when reviewing the Decision.

Discussion

11. Looking at each of the grounds in turn, my analysis is as follows.

(1) The Hearing Officer wrongly dissected the Applications, whereas she should have considered each as a whole

12. The Grounds of Appeal say:

> "My trademarks are not like the opposition's trademarks, nor is it like the examples noted above. My trademark is binding as one object, uniquely definitive from its starting word, in a transparent/white background. My trademark image uses generic colours from the colour palette, which are not light and difficult to see, which stands out clearly as one object (logo)".

13. The examples mentioned above are the following registered marks:

- UK00003714384 Mental Money;
- UK00003051558 Money Crazy; and
- UK00003216144 P Money.

14. The Appellant is right to say that it is normally appropriate to consider a mark as a whole, and that inappropriate dissection of a mark into its components may be an error of principle. However, I do not accept that the Hearing Officer fell into such error. At §7 she set out the familiar statement of principles, gleaned from the case law, as to assessment of likelihood of confusion, including "(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details". At §11 she said:

> "*It is clear from Sabel BV v. Puma AG (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in Case C-591/12P, Bimbo SA v OHIM, that:*
>
> > *".....it is necessary to ascertain, in each individual case, the overall impression made on the target public by the sign for which registration is sought, by means of, inter alia, an analysis of the components of a sign and of their relative weight in the perception of the target public, and then, in the light of that overall impression and all factors relevant to the circumstances of the case, to assess the likelihood of confusion."*
>
> *It would be wrong, therefore, artificially to dissect the marks, although it is necessary to take into account their distinctive and dominant components and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions created by the marks*".

15. At §14 she said:

> "*As regards the applicant's marks, mark '329 consists of the words 'DESIGNER MONEY' in block capitals where 'DESIGNER' is presented in the colour gold and 'MONEY' in black. The letters in the word 'MONEY' appear to be taller than those in 'DESIGNER'. The word 'MONEY' is also presented in bold but the word 'DESIGNER' is not. At the hearing, Mr Claire submitted that the word 'Designer', being the first word in both of his marks, is, therefore, memorable and emphasized. I note this contention. However, I find that it is the word 'MONEY which carries the greatest weight in the overall impression of both marks. In respect of the '329 mark, this is for two reasons. First, the word MONEY is far more distinctive than the word 'DESIGNER' in relation to clothing, owing to the fact that 'Designer' is notoriously used as a descriptive adjective in the clothing industry to refer to clothing that is expensive and fashionable and/or made by a famous/prestigious designer. Secondly, the word MONEY appears to be larger than the word 'DESIGNER' in the '329 mark and is, therefore, more visually prominent. Turning to the '293 mark, this contains the words 'Designer Money' in plain title case letters. Again, I consider that, despite its presence at the end of the mark, it is the word 'MONEY' which carries the greatest weight in the overall impression of that mark, owing to its relatively greater degree of distinctiveness as compared to the descriptive adjective, 'Designer'*".

16. It is clear from the above that the Hearing Officer did consider the Applications as a whole, but also took into account the distinctive and dominant features of the Applications. Her decision to give the word MONEY greater distinctiveness than the word DESIGNER is the subject of Ground 3 below. Subject to that, in the abstract the Hearing Officer's approach – of identifying

the distinctive and dominant component(s) of the Applications – was not wrong, but rather was precisely as mandated by the case law. I dismiss this first ground of appeal.

(2) The Hearing Officer failed to consider the similarity of the marks from the perspective of close range

17. The Grounds of Appeal say:

> "When people view a logo, they are in different ranges of it, therefore I must consider the perspective of close range, which signifies how one judges the aspects of it. For my trademark, when people are in this view range, then they will be able to distinguish that it is not my opponent's trademark and is a different brand altogether. One can't base their judgement of a logo from a far range or in a skewed manner".

18. The Appellant is right to say (in terms) that the Hearing Officer was required to consider normal and fair use of the Applications. However, I do not accept that she failed to do so. Nowhere in the Decision is there any indication that she viewed the Applications only from a distance, rather from the perspective of a close range. Indeed, it is clear from the analysis at §14 (quoted at §15 above) that the Hearing Officer analysed the Applications in some detail, noting for example the colours, size of font and use of bold text.

19. The Hearing Officer's analysis cannot therefore be faulted, and I accordingly dismiss this second ground of appeal.

(3) The Hearing Officer wrongly held that the word "Designer" was used in a descriptive manner in the Applications

20. The Grounds of Appeal state:

> "To provide full clarification upon this case, it's clear throughout the opposition process, that the opposition has a primary issue with the logo similarities, although they highlight that the word 'Designer' is not distinctive in my application, which is supported by baseless merits. Otherwise, they would have opposed the 50-100 other applications that have been approved in the last 2 years, rather than targeting just my trademark text & image (Examples include: E Money, Money Man, Money Max, Arab Money, Money Home, just to name some in Class 25). Let's make it clear that the opposition was trying to imply that I'm using the word designer, in a descriptive method of clothing, which is simply not true, and the word "Designer" doesn't just relate to clothing, where it is widely used in all industries".

21. The Hearing Officer considered the meaning of the word "DESIGNER" at two points in the Decision. First, at §14 she said "*First, the word MONEY is far more distinctive than the word 'DESIGNER' in relation to clothing, owing to the fact that 'Designer' is notoriously used as a descriptive adjective in the clothing industry to refer to clothing that is expensive and fashionable and/or made by a famous/prestigious designer*". Secondly, at §17 she said "*Conceptually, both marks consist of well-known English words with an immediately graspable meaning. The concept conveyed by the opponent's mark is simply that of money. Mr Claire submitted that his mark has no definitive meaning and is 'a brand name where you can make what you want from it'. I find that Mr Claire's marks also portray the concept of money although that concept is qualified as being 'designer' money (money that is fashionable and/or made by a famous/prestigious designer)*".

22. Mr Claire added, during the appeal hearing, in response to my question "How do you say you used the word "designer"?":

> "*So, being a designer, I know "Design" isn't just clothing. It's everything. The way we are using it is in a broader and more ambiguous sense that we're not associating to the actual description, rather it be as one entity than two describing words*".

23. Whereas I accept that Mr Claire may not, when devising the Applications, have intended the word "designer" to refer to a person who designs, or to a famous/prestigious designer, the meaning of words within a trade mark is not subjective. Rather, it is objective, viewed through the eyes of the notional average consumer (a member of the public in this particular instance). The Hearing Officer took judicial notice at §14 of the widespread use of the word "designer" within the clothing industry. She cannot be faulted in that regard. She considered that the average consumer, or at least a significant proportion thereof, would understand the word "designer" to be used, in the context of the Applications, to refer to something "*that is fashionable and/or made by a famous/prestigious designer*". That is a conclusion she was entitled to reach (and indeed is a correct conclusion in my view).

24. The meaning of the word "designer" was a matter for the Hearing Officer. She made no error of principle in her analysis, and her conclusion was not wrong. I dismiss this third ground of appeal.

(4) The Hearing Officer wrongly failed to take into account the different styles (including font and layout) used by the Appellant in the Applications

25. The Grounds of Appeal state:

> "The opposition may own the trademark 'Money' in relation to their image trademark, but they do not own everything that surrounds it, unless the image trademark is actually similar to their logo and starts with the generic word 'Money'. I use a different style altogether, from my font to my layout".

26. I understand this to be a contention that the Hearing Officer failed to take into account, or give sufficient weight to, the fact that the word "Money" is in handwritten font in the Earlier Mark, whereas one of the Applications is in plain text, and the other is in block capitals with the word "DESIGNER" in gold.

27. At §13 the Hearing Officer said: "*The earlier mark consists of the word 'money', presented in a hand-written type font. The overall impression of that mark is dominated by the word 'money' with the presentation playing a lesser role*".

28. At §14 (quoted above) she noted in relation to the '329 Application the use of block capitals, that the word 'DESIGNER' is presented in the colour gold and 'MONEY' in black, and that the letters in the word 'MONEY' appear to be taller than those in 'DESIGNER'. For the '293 mark, she noted that the words appear in plain title case letters.

29. Having noted those differences, the precise weight to be given to them was a matter for the Hearing Officer. She held that the visual, aural and conceptual similarities, notwithstanding the differences she identified, were medium, medium and high respectively. I am entitled to intervene only if those conclusions were "wrong" in the sense set out at 9(iii) above. In my view, she was not wrong to reach those conclusions, which were ones she was entitled to reach.

30. I therefore dismiss this fourth ground of appeal.

(5) The addition of the word "Designer" is not such as to bring this case within the scope of indirect confusion as set out in the *L.A. Sugar* decision relied upon by the Hearing Officer

31. The Grounds of Appeal state:

> "Regards to the points made in 17. A & B of 'Tesco', with the text "26 RED" before 'Tesco' and the words 'Lite', 'Express', 'Worldwide' or 'Mini' after the text 'Tesco', I recognise that these should not be accepted for a new trademark owner, based on the facts that 'Tesco' is not a dictionary word and is also widely known. Nevertheless, these examples are not relatable in our case, even if the word 'Designer' is put before the word 'Money'; we can't name one brand that has added the word 'Designer' to the start of its existing trademark. Furthermore, brands would not describe themselves as 'designer Nike', where they would put it in better context, such as 'Nike has made a designer range' or 'Get your designer trainers from Nike' or 'Buy designer Nike clothing from our website'; concluding this example, using the basic constructs of language and English, they would never start a sentence with 'Designer Nike', which enforces an upper caps on the word 'Designer', nor would they start a sentence in that format in describing themselves or marketing. In addition, as 'Tesco' is not a dictionary word, whereas 'Money' is, if one was to see 'Designer Tesco', they would make an association that it belongs to 'Tesco', whereas if someone sees the text 'Designer Money', they are unlikely to make an association that it belongs to the 'Money' trademark owners".

32. This is a reference to the Hearing Officer's analysis of the likelihood of indirect confusion at §21, where she cites the decision of Mr Iain Purvis Q.C. (as he then was), sitting as the Appointed Person, in *L.A. Sugar Limited v By Back Beat Inc*, Case BL O/375/10:

> "17. Instances where one may expect the average consumer to reach such a conclusion tend to fall into one or more of three categories:
>
> (a) where the common element is so strikingly distinctive (either inherently or through use) that the average consumer would assume that no-one else but the brand owner would be using it in a trade mark at all. This may apply even where the other elements of the later mark are quite distinctive in their own right ('26 RED TESCO' would no doubt be such a case).
>
> (b) where the later mark simply adds a non-distinctive element to the earlier mark, of the kind which one would expect to find in a sub-brand or brand extension (terms such as 'LITE', 'EXPRESS', 'WORLDWIDE', 'MINI' etc.).
>
> (c) where the earlier mark comprises a number of elements, and a change of one element appears entirely logical and consistent with a brand extension ('FAT FACE' to 'BRAT FACE' for example)".

33. At §23 she reminded herself that the above is not an exhaustive list of all the ways in which indirect confusion can occur; they are merely examples of the way in which it tends to occur. At §24 she said:

> "In the case before me, I consider that the average consumer is likely to believe that the respective goods come from the same or linked undertaking(s). I come to this conclusion having borne in mind, particularly, that: i) the respective goods are identical ('clothing'), ii) the most dominant element of the applicant's mark is the distinctive word 'MONEY', iii) the word 'Designer' is commonly used in the relevant industry as a descriptor, and iv)

there is a high degree of conceptual similarity between the marks. I find that the average consumer is likely to believe that both of the applicant's marks are brand extensions of the earlier mark. There is, therefore, a likelihood of indirect confusion in respect of both of the applicant's marks".

34. It is clear, therefore, that she based her analysis primarily on category (b) in *L.A. Sugar* - where the later mark simply adds a non-distinctive element to the earlier mark, of the kind which one would expect to find in a sub-brand or brand extension. Whilst the Appellant is correct to state that category (a) is inapplicable in this instance, the Hearing Officer did not rely on it. In my view, she was clearly entitled, given her recognition of the common usage of the word "designer" in the clothing industry, to reach the conclusion that its addition as a descriptor would lead to the average consumer believing that the Applications are brand extensions of the Earlier Mark.

35. I accordingly dismiss this fifth ground.

(6) The Hearing Officer failed to take into account that the Earlier Mark represents an unknown brand, and therefore the general public would not make assumptions as to association with the Applications

36. The Grounds of Appeal state:

> "Confusion of brand logos occur when they look similar, and people know the brand in relation to the logo appearance. In most cases, most people do not know the brand name of uncommon logos and it's their role to ask what brand it Is or do their own research, when enquiring a brand logo on a garment (For example, people would say, it is 'Nike', not "It's designer Nike"). From that point onwards, they make an association in their mind and remember this knowledge, regardless of the logo, brand or class. As my opposition's logo is not widely common, most people will have to enquire what brand it is, when seeing someone wearing their logo or identifying it online. If people do not know the name of a brand in relation to the logo, they do not make an association, until intelligence is provided".

37. As I understand it, this is a contention that, given that the Earlier Mark has not been shown to have a reputation in the UK, the average consumer when confronted with the Applications would not make the assumption that they are brand extensions of the Earlier Mark.

38. It is true that the case law states that there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has been made of it (as cited by the Hearing Officer at §7(h). However, it is not the law that the absence of a highly distinctive character is fatal to a finding of likelihood of confusion, whether direct or indirect. Provided that the Earlier Mark has the minimum degree of distinctive character necessary for valid registrability, the Hearing Officer is required to carry out an analysis of likelihood of confusion. In doing so, she took into account all relevant factors, including that the goods are identical and the average consumer will pay a medium degree of attention.

39. She made no error of principle, and her conclusion was not wrong. I dismiss this sixth ground of appeal.

(7) The Appellant was not previously aware of the Earlier Mark until after he had filed his Applications

40. The Grounds of Appeal state:

> "I can clarify that I didn't know about my oppositions brand name until I decided to file for a trademark application, where I did research and found no conflict to register my trademark. I didn't register it to benefit from their existing presence, where I purchased several domains over the last decade ending with the extension ".money", which I never managed to sell. Therefore, as a designer in the web industry over the last 15 years failing to make money, I noticed that the web domain 'Designer. money' was available to buy and I purchased it, with the intentions on setting it up as a clothing label in a community driven way".

41. I can deal with this final ground shortly. Whereas I am perfectly happy to accept that the Appellant was not aware of the Earlier Mark when filing his Applications, this is not a relevant factor. Intention to cause confusion amongst the average consumer is not a requirement under s. 5(2)(b) – it is sufficient that there is a likelihood of confusion, irrespective of the intention and knowledge of the applicant.

42. I accordingly dismiss this seventh ground of appeal.

Conclusion

43. The appeal is dismissed, and the oppositions under Section 5(2)(b) of the Act succeed in full against both Applications.

Costs

44. Clearly, the Respondent has been the successful party in this appeal. However, the Respondent took no part in this appeal, and has therefore not incurred any costs in this appeal.

45. The Hearing Officer's order that the Appellant should pay the Respondent £1,000 by way of costs of the hearing below still stands, and this sum should be paid within 21 days of this decision.

Dr. Brian Whitehead

22 May 2024

Representation

Mr Amritpal Claire in person as the Applicant / Appellant

The Opponent / Respondent took no part in the appeal