

TRADE MARKS ORDINANCE (CAP. 559)

APPLICATION FOR REVOCATION OF TRADE MARK NO. 2004B02269

Mark : Royal Spirit

Class : 33

Applicant : Royal Wine Corporation

Registered Owner : HiVi Co., Limited

STATEMENT OF REASONS FOR DECISION

Background

1. On 28 August 2012 (“Revocation Application Date”), Royal Wine Corporation (“Applicant”) made an application (“Revocation Application”) under the Trade Marks Ordinance (Cap. 559) (“Ordinance”) to revoke the registration of the following mark (“subject mark”) on the ground of non-use:

Royal Spirit

The Revocation Application was filed with a statutory declaration of Ning She Hang Stephanie made on 28 August 2012 (“Ning’s Declaration”).

2. The subject mark is registered as of 1 August 2002 under Trade Mark No. 2004B02269 in the name of HiVi Co., Limited (“Registered Owner”) in respect of “*liquors, alcoholic beverages*” in Class 33 (“subject goods”). The actual date of registration of the subject mark is 23 February 2004.

3. The Registered Owner filed its counter-statement on 27 February 2013 (“Counter-statement”) together with a statutory declaration of Chen Huifang made on 26 February 2013 (“Chen’s Declaration”).

4. The Applicant did not file any evidence in reply.

5. The hearing on the Revocation Application took place before me on 25 November 2014. Mr. Victor Lui, Counsel, instructed by Messrs. S.W. Wong & Associates appeared for the Registered Owner at the hearing. The Applicant did not appear.

Applicant's evidence

6. The Applicant's evidence consists of Ning's Declaration, which was made by Ning She Hang Stephanie, then a trainee solicitor in the employ of Messrs. Robin Bridge & John Liu, agent for the Applicant. Ning's Declaration outlined the enquiries made which led to the Applicant's belief that the subject mark had not been used by the Registered Owner or with its consent in Hong Kong in relation to any of the subject goods for a continuous period of more than three years at any time in the past since it was registered on 23 February 2004.

The Registered Owner's evidence

7. The Registered Owner's evidence consists of Chen's Declaration, which was made by Chen Huifang ("Ms. Chen"), a shareholder and director of the Registered Owner. Since the incorporation of the Registered Owner, Ms. Chen had been a co-founder and director of the Registered Owner together with Mr. Yao Hongbo ("Mr. Yao").

8. According to Chen's Declaration,¹ Ms. Chen and Mr. Yao set up 貴州茅台鎮御溪酒業有限公司, a company in Guizhou Province, China in 2002 with the objective of making and supplying *baijiu* (white wine) for Chinese wine drinkers. Ms. Chen and Mr. Yao decided to adopt a transparent bottle to package their *baijiu* products, and designed a golden bottle cap and label bearing the mark “御溪液”, meaning “drinks made especially for emperor”. The Chinese character “御” was translated as “Royal”, whereas the Chinese characters “溪液” were translated as “Spirit”. Ms. Chen and Mr. Yao also designed the following logo (“the Logo”) which consisted of the drawing of a Chinese wine cup made especially for an emperor, the English words “ROYAL SPIRIT” and the Chinese characters “御溪”:



¹ Chen's Declaration, paras 7-9.

9. According to Ms. Chen, *baijiu* products bearing the marks “御溪液” and “Royal Spirit” were launched in Mainland China. The products were advertised in an issue of the CAAC INFLIGHT MAGAZINE (中國民航) in 2004.²

10. In or around April 2002, 廣州惠威電器有限公司, a company said to be affiliated to the Registered Owner, filed an application in Mainland China for registration of the mark “御溪液” in respect of various kinds of wines and alcoholic drinks in Class 33. The mark (No. 3166850) was registered in May 2003.

11. In or around August 2002, the Registered Owner applied for registration of “Royal Spirit” (i.e. the subject mark) and “御溪液” in Hong Kong in respect of “liquors, alcoholic beverages” in Class 33. The marks were registered in 2004 under Trade Mark Nos 2004B02269 and 2004B02270 respectively.

12. The Registered Owner claimed that the Registered Owner’s wine products bearing the mark “御溪液” and the subject mark were launched during the Hong Kong Electronics Fair (Autumn Edition) 2005 held between 13 and 16 October 2005 at the Hong Kong Convention and Exhibition Centre. The Registered Owner claimed that in order to keep advertising costs down, during that Hong Kong Electronics Fair, the Registered Owner made use of the opportunity not only to promote its hi-fi/electronic products but also alcoholic drinks (wines) which were ancillary to the Registered Owner’s trading business. The Registered Owner also claimed that in each of the years from 2006 to 2010, the Registered Owner continued to lease a booth at the Hong Kong Electronics Fair to showcase not only its electronic products but also its wine products. The Registered Owner also claimed to have promoted its wine products under the subject mark by keeping and displaying them at the Registered Owner’s office premises in Hong Kong. I will return to these claims below.

Ground for revocation

13. Section 52(2)(a) of the Ordinance provides, *inter alia*, as follows:

“(2) *The registration of a trade mark may be revoked on any of the following grounds, namely-*

(a) that the trade mark has not been genuinely used in Hong Kong by the owner or with his consent, in relation to the goods or services for which it

² Chen’s Declaration, paras 10 & 12.

is registered, for a continuous period of at least 3 years, and there are no valid reasons for non-use (such as import restrictions on, or other governmental requirements for, goods or services protected by the trade mark);”.

14. By the Revocation Application, the Applicant contends that the subject mark has not been genuinely used in Hong Kong by the Registered Owner or with its consent in relation to any of the subject goods for a continuous period of more than 3 years at any time in the past since the subject mark was registered on 23 February 2004, and the Applicant is not aware of any valid reasons for non-use. The Applicant seeks revocation of the subject mark with effect from:

- (I) 25 May 2011; or alternatively
- (II) the Revocation Application Date (i.e. 28 August 2012).

15. For the purpose of (I) above, it is necessary to consider whether the subject mark has been genuinely used in Hong Kong by the Registered Owner or with its consent in relation to the subject goods during the three-year period beginning on 25 May 2008 (“Relevant Period A”).

16. For the purpose of (II) above, it is necessary to consider whether the subject mark has been genuinely used in Hong Kong by the Registered Owner or with its consent in relation to the subject goods during the three-year period beginning on 28 August 2009 (“Relevant Period B”).

17. If the subject mark has not been genuinely used in Hong Kong by the Registered Owner or with its consent in relation to any of the subject goods during the Relevant Period A, the subject mark would be revoked with effect from 25 May 2011, and it would not be necessary to separately consider the Relevant Period B. I would therefore consider the Relevant Period A first.

Burden of proving use

18. Section 82(1) of the Ordinance provides that:

“If, in any civil proceedings under this Ordinance in which the owner of a registered trade mark is a party, a question arises as to the use to which the trade mark has

been put, the burden of proving that use shall lie with the owner.”

19. Accordingly, the burden of proving genuine use of the subject mark in Hong Kong in relation to the subject goods during any of the Relevant Period A and the Relevant Period B lies with the Registered Owner.

Genuine use

20. The policy behind the requirement that a trade mark, once registered, should be used in order to justify its continued registration is stated in *Ansul BV v Ajax Brandbeveiliging BV* [2005] Ch 97 (“*Ansul*”), paragraph 37. It is that the purpose of trade mark is to enable its owner to create or preserve a market for goods or services produced or supplied by him. It does so by granting to the owner the exclusive right to use the mark in that market, and the ability to stop others from using the mark in relation to their own goods or services. However, where the mark is not in fact used for this purpose, it ceases to achieve this purpose. There is then no longer any justification for preventing others from using it (*Brands Inc Ltd v Kabushiki Kaisha Regal Corp* [2006] HKEC 2313 (HCMP 754/2006) (“*Brands*”), paragraph 14). Further, as a trade mark and the rights that are conferred by it are essentially territorial in nature, what is relevant for the purpose of deciding whether or not the owner should be entitled to retain the mark and its associated rights is use as a trade mark in the territory in respect of which it is registered (*Brands*, paragraph 15).

21. What constitutes genuine use has been considered in a number of cases including *Ansul*, *La Mer Technology Inc v Laboratoires Goemar SA* [2004] F.S.R. 38 (“*La Mer*”), *Laboratoire de la Mer Trade Mark* [2006] F.S.R. 5 (“*Laboratoire*”) and *Brands*. According to these cases:

- (i) There is genuine use of a trade mark where it is used in accordance with its essential function, which is to guarantee the identity of the origin of the goods or services for which it is registered, in order to create or preserve an outlet for those goods or services (*La Mer*, paragraph 27).
- (ii) Genuine use does not include token use for the sole purpose of preserving the rights conferred by that mark (*La Mer*, paragraph 27).
- (iii) It entails use of the mark on the market for the goods or services protected by that mark and not just internal use by the undertaking concerned (*Ansul*,

paragraph 37).

- (iv) Use of the mark must relate to goods or services already marketed or about to be marketed and for which preparations by the undertaking to secure customers are under way, particularly in the form of advertising campaigns (*Ansul*, paragraph 37).
- (v) When assessing whether use of a trade mark is genuine, regard must be had to all the facts and circumstances relevant to establishing whether the commercial use of the mark is real in the course of trade, particularly whether such use is viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods or services protected by the mark, the nature of those goods or services, the characteristics of the market and the scale and frequency of use of the mark (*La Mer*, paragraph 27).
- (vi) Even if use of a mark is not quantitatively significant, it may be sufficient to qualify as genuine use if it is deemed to be justified, in the economic sector concerned, for the purpose of preserving or creating market share for the goods or services protected by the mark (*La Mer*, paragraph 21).
- (vii) What matters are the objective circumstances of each case, and not the owner's commercial intention, purpose or motivation (*Laboratoire*, paragraph 34).
- (viii) There is no requirement that the mark must have come to the attention of the end user or consumer. The retail or end user market is not the only relevant market on which a mark is used for the purpose of determining whether use of the mark is genuine (*Laboratoire*, paragraph 32).
- (ix) What is essential (other than where section 52(3)(b) of the Ordinance is applicable) is that the mark should have been used by being exposed to third parties (other than the owner or his licensees or agents) on a market in Hong Kong for goods or services of a type in respect of which the mark was registered. The need for exposure on such a market follows from the fact that to be used as a trade mark, the mark must be used in such a way as to act as a badge of origin, or a guarantee of the source or origin of the relevant goods or services (*Brands*, paragraph 18).

22. In the skeleton submissions of the Registered Owner for the hearing on the Revocation Application (“Skeleton Submissions”), the Registered Owner submitted that the following constituted genuine use of the subject mark in Hong Kong since its registration:

- (A) "Launch of the wine products in the Hong Kong Market and launch/promotion of the wine products to the public during the Hong Kong Electronics Fair (2005)";
- (B) "Promotion and marketing of the wine products to the public during subsequent editions of the Hong Kong Electronics Fair (2006, 2007, 2008, 2009, 2010)"; and
- (C) "Promotion and marketing of the wine products at the Owner’s office premises".

I will consider each of these alleged uses of the subject mark in turn.

(A) Launch of the wine products in Hong Kong – the Hong Kong Electronics Fair (2005)

23. Ms. Chen stated in paragraphs 14 and 15 of Chen’s Declaration as follows:

"14. In or around 2004/2005, we launched our wine products bearing trade marks/device mark of “御溪液” and “Royal Spirit” to the Hong Kong market. In order to keep the advertising costs down, we had decided to launch our wine products during the Hong Kong Electronics Fair (Autumn Edition) 2005 held on 13th October 2005 to 16th October 2005 at the Hong Kong Convention and Exhibition Centre, when the Company had leased a booth to showcase its hi-fi/electronic products. There is now produced and shown to me marked "**Exhibit F**" copy of the Invoice dated 6th June 2005 issued by the Hong Kong Trade Development Council.

15. During the Hong Kong Electronics Fair, we made use of the opportunity not only to promote our hi-fi/electronic products, but also our alcoholic drinks (wines) which are ancillary to our trading business. We and our staff (sales representatives) had given out leaflets (see **Exhibit C**) to the general public who came to visit our booth. We and our staff (sales representatives) had also given our business cards to the general public so that they could contact us to place order of the products."

24. I first consider the two exhibits to Chen's Declaration referred to above.

25. The invoice a copy of which appears at "**Exhibit F**" to Chen's Declaration was issued by the Hong Kong Trade Development Council to "Hongo Holdings Limited" (previous name of the Registered Owner). The invoice was in respect of "Product Group Listing" and a "15 sqm Standard Booth" at the "HK Electronics Fair (Autumn Edition) 2005". The subject mark does not appear on the invoice. The Fair was an electronics fair, not a fair for wines and spirits. No photograph of the Registered Owner's booth showing use of the subject mark in relation to the subject goods has been provided. There is no evidence of any of the subject goods having appeared in any "Product Group Listing" for the Fair under the subject mark.

26. The leaflets found at "**Exhibit C**" to Chen's Declaration show bottles of wine and their packaging bearing the mark “御溪液” and either (i) the Logo or (ii) the mark "*Royal Spirit*" and a device of a Chinese wine cup for an emperor. The following words appear at the bottom of one of the leaflets:

“贵州茅台镇御溪酒业有限公司出品
御溪香港 Royal Spirit Hong Kong 1709, China Merchants Tower, Shun Tak Centre,
168-200 Connaught Road, Central, Hong Kong Tel: +852 90187595”

The leaflets are undated. There is nothing on any of the leaflets which would indicate that they were printed specifically for use at the Hong Kong Electronics Fair (Autumn Edition) 2005. No price for the wine products appear on any of the leaflets. In fact, there is no independent evidence to support the claim that the leaflets were indeed distributed at the Fair. There is also no evidence of any of the subject goods bearing the subject mark having been sold or any order having been placed for such goods at or after the Fair.

27. Likewise, there is no independent evidence to support the claim that business cards were given to members of the public at the Fair so that they could contact the Registered Owner to place orders for wine products bearing the subject mark. There is no suggestion that the subject mark appears on any of the business cards. Given that it was an Electronics Fair and not a fair for wines and spirits, even if business cards of officers of the Registered Owner were distributed at the Fair, it does not follow that they were distributed to promote wine products under the subject mark.

28. According to the principles stated in paragraph 21(ix) above, what is essential is that the mark should have been used by being exposed to third parties on a market in Hong Kong *for goods or services of a type in respect of which the mark was registered*. The bare claim (unsupported by any independent evidence) that wine products bearing the subject mark were promoted at the Hong Kong Electronics Fair (Autumn Edition) 2005 (which was, in any event, not a fair for wines and spirits) does not amount to evidence of genuine use of the subject mark in relation to the subject goods. Furthermore, the Hong Kong Electronics Fair (Autumn Edition) 2005 took place in October 2005 which was before the Relevant Period A. The alleged use referred to in paragraph 22(A) above does not constitute genuine use of the subject mark in Hong Kong in relation to the subject goods during the Relevant Period A.

(B) Promotion and marketing of the wine products to the public during subsequent editions of the Hong Kong Electronics Fair (2006, 2007, 2008, 2009, 2010)

29. Ms. Chen stated in paragraph 16 of Chen's Declaration as follows:

"In the following years, the Company had continued to lease a booth at the Hong Kong Electronics Fair to showcase not only its electronic products but also its wine products. There is now produced and shown to me marked "**Exhibit G**" copies of the Official Receipts dated 2nd August 2006, 11th June 2007, 29th April 2008, 27th April 2009 and 26th April 2010 issued by the Hong Kong Trade Development Council."

30. Of the Fairs referred to in the copies of invoices and receipts appearing at "**Exhibit G**" to Chen's Declaration, only the Fairs in April 2009 and April 2010 took place during the Relevant Period A. The subject mark does not appear on any of those invoices and receipts. Those Fairs were Electronics Fairs, not fairs for wines and spirits. No photograph showing use of the subject mark in relation to the subject goods at any of the Fairs has been provided. There is no evidence of any of the subject goods bearing the subject mark having been sold or any order therefor having been placed at or after any of those Fairs. In fact there is no evidence as to what was actually done at the April 2009 and April 2010 Fairs to "showcase" or promote wine products bearing the subject mark. The bare claim that the Registered Owner "*continued to lease a booth at the Hong Kong Electronics Fair [from 2006 to 2010] to showcase ... its wine products*" does not constitute evidence of genuine use of the subject mark in Hong Kong in respect of the subject goods during the Relevant Period A.

(C) Promotion and marketing of wine products at the Owner's office premises

31. Ms. Chen stated in paragraph 17 of Chen's Declaration as follows:

"Since obtaining registration of the Subject Mark in Hong Kong, we and our staff (sales representatives) have been promoting the wine products at the Company's office premises. There is now produced and shown to me marked "**Exhibit H**" photo of the package bearing the trade marks/device mark “御溪液” and “Royal Spirit”. Samples of our wine products have been kept and displayed at our Company's office premises in Hong Kong for the purpose of marketing and promotion to our customers and also for them to taste. There is now produced and shown to me marked "**Exhibit I**" photo of the sample of the wine bearing the trade marks/device mark “御溪液” and “Royal Spirit” displayed on the shelf at the Company's premises in Hong Kong. The stocks of wines are being kept in the warehouse. There is now produced and shown to me marked "**Exhibit J**" photo of the boxes of packaged wines bearing the trade marks/device mark of “御溪液” and “Royal Spirit”."

32. "**Exhibit H**" to Chen's Declaration is a photograph showing the packaging of a bottle of wine with a device of a Chinese wine cup for an emperor and the marks “*Royal Spirit*” and “御溪液” appearing on it. The photograph is undated. There is no evidence as to when and where the photograph was taken.

33. "**Exhibit I**" to Chen's Declaration consists of two undated photographs.

34. The first photograph shows the following two items placed on a shelf: (i) a transparent document holder with a leaflet inserted in it; and (ii) a wine case with the front cover plates removed showing a bottle of wine with the Logo and the mark “御溪液” on it. The leaflet in the document holder is the same as one of the leaflets at "**Exhibit C**" to Chen's Declaration (referred to in paragraph 26 above). Printed at the top of the document holder are the following:

"As advertised in

HONG KONG ELECTRONICS

With the compliment of



Hong Kong Trade Development Council"

The document holder is like a photo frame, and the leaflet inserted in it can easily be replaced by another piece of paper or printed matter.

35. The second photograph shows the following items placed on a shelf: (i) the same document holder as in the first photograph, and (ii) a wine case similar to the one in the first photograph, but this time the wine case is closed and its contents are not visible.

36. Genuine use of a mark entails use of the mark on the *market* for the goods or services protected by that mark and not just internal use by the undertaking concerned (paragraph 21(iii) above). Simply keeping samples of goods bearing the subject mark or a leaflet depicting such goods at one's office does not amount to exposure of the mark to third parties on a *market* for the goods concerned. Moreover, what matters are the objective circumstances of each case, and not the owner's commercial intention, purpose or motivation (paragraph 21(vii) above).

37. Although the Registered Owner claims that "*Samples of our wine products have been kept and displayed at our Company's office premises in Hong Kong for the purpose of marketing and promotion to our customers and also for them to taste*" (*emphasis* added), there is no evidence that any customer or potential customer of the Registered Owner has visited the Registered Owner's office premises in Hong Kong during the Relevant Period A and has looked at wine product samples or any leaflet therefor bearing the subject mark. There is no evidence that any of the subject goods bearing the subject mark has been sold or any order therefor has been placed in Hong Kong. In fact there is no independent evidence that corroborates with the Registered Owner's claim that wine products bearing the subject mark have been displayed at the Registered Owner's office premises in Hong Kong.

38. The Registered Owner also claimed that stocks of the wine products bearing the subject mark were being kept in a warehouse as shown in the photographs at "**Exhibit J**" to Chen's Declaration. On the other hand, according to a letter from the agent of the Registered Owner dated 14 November 2014, that warehouse is located in Guangzhou, China, and not in Hong Kong. In any event, keeping goods bearing a mark in a warehouse does not constitute exposure of the mark to *third parties (other than the owner or his licensees or agents)* on a *market* for goods of a type in respect of which the mark was registered. (paragraph 21(ix) above).

39. I find that the claims and exhibits referred to in paragraph 31 above do not

amount to evidence of genuine use of the subject mark in Hong Kong in relation to the subject goods during the Relevant Period A.

40. As stated in *Kabushiki Kaisha Fernandes v OHIM* (Case T-39/01) [2003] E.T.M.R. 98 (at para. 47):

“Genuine use of a trade mark cannot be proved by means of probabilities or suppositions, but must be demonstrated by solid and objective evidence of effective and sufficient use of the trade mark on the market concerned”.

41. Jacob J (as he then was) also remarked in *Laboratoire de la Mer Trade Marks* [2002] F.S.R. 51 (at para. 9) to the effect that:

“Those concerned with proof of use should read their proposed evidence with a critical eye – to ensure that use is actually proved – and for the goods or services of the mark in question. All the “t”s should be crossed and all the “i”s dotted”.

42. According to the principles referred to in paragraph 21 above, for use of a mark to constitute genuine use, it must relate to goods or services already marketed or about to be marketed and for which preparations by the undertaking to secure customers are under way. When assessing whether use of a trade mark is genuine, regard must be had to all the facts and circumstances relevant to establishing whether the **commercial use** of the mark is **real in the course of trade** and is in accordance with its essential function, which is to guarantee the identity of the origin of the goods or services for which it is registered in order to create or preserve an outlet for those goods or services.

43. I have examined each of the claims referred to in paragraph 22 above in the context of the whole of Chen’s Declaration (with all the exhibits). The Registered Owner claimed that the subject goods were "launched" in Hong Kong in 2005 in an electronics fair, and continued to be promoted in subsequent editions of the electronics fair from 2006 to 2010. There is however no independent evidence to show that the goods were indeed so promoted at such fairs. It is in any event unusual that wine products are promoted in an electronics fair. People attending an electronics fair would not expect to find wine products promoted there. The Registered Owner also claimed to have kept and displayed wine products bearing the subject mark in its office premises in Hong Kong "for the purpose of marketing and promotion", but there is again no independent evidence submitted in support of such claim. Even up until the time of Chen's Declaration in February 2013 which was 21 months after the end of the

Relevant Period A, there had been no evidence that any of the subject goods bearing the subject mark had ever been sold in Hong Kong or that any order therefor had been placed in Hong Kong.

44. Having considered the Registered Owner's evidence as a whole, I am not satisfied that during the Relevant Period A, there has been real commercial use of the subject mark in relation to the subject goods in accordance with the essential function of a trade mark in order to create or preserve an outlet for the subject goods. I find that the Registered Owner has failed to discharge the burden of showing genuine use of the subject mark in Hong Kong by the Registered Owner or with its consent in relation to any of the subject goods during the Relevant Period A.

Reason for non-use

45. I refer to section 52(2)(a) of the Ordinance set out in paragraph 13 above. The Registered Owner has not specifically pleaded any valid reason for non-use in its Counter-statement. It is, however, stated in paragraph 18d of Chen's Declaration as follow:

“A large quantity of the wines bearing the Subject Mark (about 50,000 bottles) has been packed ready for sale. As our white wines have ageing potential and capacity, it is the Company's commercial decision not to seek for a quick sale but to find the right buyers. It is expected that as our wines ages and reaches its maturity, the quality will improve thereby making drinking more enjoyable and also increasing the market value of the products. Hence, should the Subject Mark be revoked on the ground of non-use, this may stop us from selling our products thereby causing irreparable damage to our business.”

46. References to valid reasons for non-use need to be interpreted in accordance with art.19(1) of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS),³ which reads:

*“If use is required to maintain a registration, the registration may be cancelled only after an uninterrupted period of at least three years of non-use, unless **valid reasons** based on the existence of obstacles to such use are shown by the trademark owner. Circumstances arising **independently of the will of the owner** of the trademark*

³ *Kerly's Law of Trade Marks and Trade Names* (15th Edn.) para.10-085.

which constitute an obstacle to the use of the trademark, such as import restrictions on or other government requirements for goods or services protected by the trademark, shall be recognized as valid reasons for non-use.” (emphasis added)

47. Not to sell wines in bottles and packaging bearing the subject mark until the wines had aged and reached maturity was entirely a commercial decision of the Registered Owner. It was not a circumstance arising independently of the will of the owner of the subject mark which constituted an obstacle to the use of the mark. Accordingly, even if the Registered Owner had so pleaded, it would not have succeeded in showing that there was any valid reason for non-use.

Revocation

48. As the Registered Owner has failed to discharge the burden of showing genuine use of the subject mark in Hong Kong by the Registered Owner or with its consent in relation to any of the subject goods during the Relevant Period A, and there is no valid reason for non-use, the result is that the registration of the subject mark is revoked from 25 May 2011. It is therefore not necessary for me to further consider the Relevant Period B.

Costs

49. As the Revocation Application has succeeded, I award the Applicant costs. Subject to any representations, as to the amount of costs or calling for special treatment, which either party makes within one month from the date of this decision, costs will be calculated with reference to the usual scale in Part I of the First Schedule to Order 62 of the Rules of the High Court (Cap 4A) as applied to trade mark matters, unless otherwise agreed between the parties.

(Finnie Quek)
for Registrar of Trade Marks
14 January 2015