

**0-415-15**

**TRADE MARKS ACT 1994**

**TRADE MARK APPLICATION NO. 3038341  
BY SPOTLESS FRANCHISING LTD  
TO REGISTER THE TRADE MARK**



**IN CLASSES 37 AND 40**

**AND**

**THE OPPOSITION THERETO UNDER NO. 402820  
BY SPOTLESS PROFESSIONAL VALETING SERVICES LTD**

## Background and pleadings

1. Spotless Franchising Ltd (“the applicant”) applied for the trade mark shown below on 17 January 2014 for *valeting, cleaning and polishing services for vehicles, aircraft, boats and sea going vessels; car valet services; car wash services; car cleaning services; repairs to dents, chips and upholstery for vehicles, aircraft, boats and sea going vessels; information and advisory services relating to all the aforesaid services*, in Class 37; and *application of wear resistant coatings and sealants to vehicles, aircraft, boats, sea going vessels; air deodorising, air freshening; fabric treatment; finishing and coating of textiles; application of protective coatings to leather; information and advisory services relating to all the aforesaid services*, in Class 40:



2. The application was published on 20 June 2014. It was subsequently opposed by Spotless Professional Valeting Services Limited (“the opponent”) on the basis of section 5(2)(b) of the Trade Marks Act 1994 (“the Act”). The opponent relies upon the following earlier mark for its opposition:

UK 2575759



Class 37: *Car valet services, vehicle valeting [cleaning] services, car wash services, car cleaning services, polishing (Vehicle), polishing [cleaning] of vehicles, vehicle polishing, minor vehicle repairs including repairs to dents, chips and upholstery; information and advisory services relating to all the aforesaid services.*

Filing date: 21 March 2011; date registration procedure completed: 1 July 2011.

3. The opponent opposes all of the applied-for services. Although the opponent did not explicitly say so, a claim raised under section 5(2)(b) of the Act is a claim that there is a likelihood of confusion owing, amongst other factors, to the perceived similarities between the marks and the similarities or identity between the services. This is, therefore, the opponent’s complaint against the application. The opponent

also claims that it has made extensive use of its earlier mark in connection with the valeting of all forms of motorised vehicles.

4. The applicant denies the grounds; in particular it denies that there is any similarity between the marks. The applicant claims that it has used its mark since 2004 in the UK.

5. The applicant is professionally represented by Deverill IP Ltd. The opponent represents itself. Both sides filed evidence, and both parties also filed written submissions during the evidence rounds. The parties were asked if they wished to be heard or for a decision to be made from the papers. Both chose for a decision to be made from the papers, and only the opponent filed written submissions in lieu of a hearing.

### **Opponent's evidence**

6. The opponent's evidence comes from Lisa Kershaw, who has been the opponent's Company Secretary since 3 February 2010. She exhibits the following:

- A print from the register of Community Trade Marks (CTM) which gives the details of CTM 9973181, for an identical mark to the contested application (but not for identical services), by a different applicant called Spotless Refining Ltd<sup>1</sup>.
- A print from Company Check which shows that the present applicant and the applicant for the CTM have the same sole director, Timothy Morris<sup>2</sup>.
- Copy correspondence dated 29 September 2011 from the opponent to Spotless Refining Ltd in relation to the CTM application, drawing attention to the opponent's mark and use of the same<sup>3</sup>.
- A copy of the reply dated 6 October 2011 from Spotless Refining Ltd's representatives claiming use of the name 'Spotless' for valeting services for over 12 years<sup>4</sup>.
- A copy of the response from the opponent disputing that Spotless Refining Ltd had provided valeting services for over 12 years as the company was not incorporated until 17 May 2011<sup>5</sup>.
- A copy of a chasing letter sent by the opponent<sup>6</sup>.

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<sup>1</sup> Exhibit LK1.

<sup>2</sup> Exhibit LK2.

<sup>3</sup> Exhibit LK3.

<sup>4</sup> Exhibit LK4.

<sup>5</sup> Exhibit LK5.

<sup>6</sup> Exhibit LK6.

- A copy of a letter from the representatives of Spotless Refining Ltd, dated 21 October 2011, which states that the logo had been used by their client since August 1999, which in the first place was by a sole trader who transferred the whole of the business including all goodwill and intellectual property to Spotless Refining Ltd on 17 May 2011. Ms Kershaw states that no further correspondence was received and the CTM application was withdrawn.
- A copy of a print from the register of companies which shows that at the time of the correspondence, the present applicant was still incorporated under the name Dental Direct Mobile Dental Care Ltd<sup>7</sup>.

## Applicant's evidence

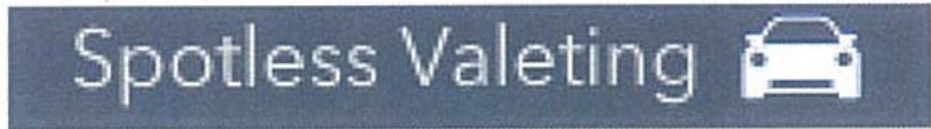
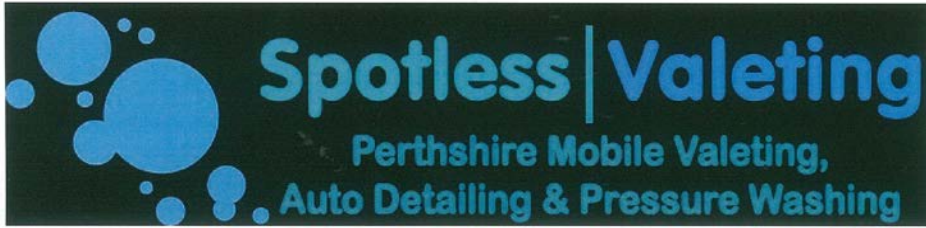
7. The applicant's evidence comes from Timothy Morris, who has been its Managing Director since 2010. His company turned over £200,000 per annum in 2013 and 2014. He first used the trade mark in 1999 when he started the business in his school holidays, transporting his cleaning materials around the Bournemouth area in a trolley. Mr Morris states that, in August 2004, he started trading under the name Spotless Valeting, using the contested mark and in May 2006 he bought his first van. Exhibit TM1 comprises three photographs showing the business expansion Mr Morris describes: there is a photo of a man standing beside a handcart, taken in 1999; a photo of a man standing beside a van bearing the image of the contested mark, taken in May 2006; and a photograph from May 2009 of four men standing beside four vans, all the vans bearing the image of the contested trade mark. Mr Morris states that his company is now structured so that the trade marks and goodwill are owned by the applicant.

8. Mr Morris gives nine examples of different UK car valeting businesses<sup>8</sup> trading under the word/name SPOTLESS. In each case, geographical and website addresses are given and website prints showing the word SPOTLESS, with various degrees of stylisation:



<sup>7</sup> Exhibit LK8.

<sup>8</sup> Exhibit TM2.



# SPOTLESS LEE CLEAN

**Professional mobile vehicle detailing service  
Ladder-less gutter vac service**





## Welcome to Spotless Valeting Wales



The businesses are located in Wellington, Perth, Cumbria, Swindon, Sheringham, Prestatyn, Aberdare, Aylesbury and Nottingham. The search for these businesses was made on Google on 10 March 2015. Further prints<sup>9</sup> show domestic cleaning businesses also using the word SPOTLESS in trading names.

### Opponent's evidence-in-reply

9. The opponent has filed a second witness statement, from Lisa Phipps (who appears to be the same person as Lisa Kershaw – the middle name is identical, and

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<sup>9</sup> Exhibit TM3.

she is identified as having been Company Secretary since 3 February 2010). Some of her statement does not appear to be strictly in reply to the applicant's evidence. Ms Phipps states that the opponent commenced trading in 2009 and, following local success, put in place plans to expand via franchising. These plans were submitted to the Head of Franchising at Lloyds Bank in 2012. The bank has told Ms Phipps that should the contested application achieve registration, it would have a serious impact on the bank's ability to support the opponent's franchisees. Ms Phipps exhibits<sup>10</sup> various prints from valeting companies' websites which do not use the word spotless as part of their business name.

## Decision

10. Section 5(2)(b) of the Act states that:

“(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,

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

11. The following principles are gleaned from the decisions of the EU courts in *Sabel BV v Puma AG*, Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, *Matratzen Concord GmbH v OHIM*, Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C-120/04, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P and *Bimbo SA v OHIM*, Case C-591/12P.

### The principles

(a) The likelihood of confusion must be appreciated globally, taking account of all relevant factors;

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably 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, and whose attention varies according to the category of goods or services in question;

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;

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<sup>10</sup> Exhibit LP4.



(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

(e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;

(f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

(g) a lesser degree of similarity between the goods or services may be offset by a great degree of similarity between the marks, and vice versa;

(h) 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;

(i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;

(j) 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;

(k) if the association between the marks creates a risk that the public will wrongly believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

### Comparison of services

12. The parties' competing specifications are:

<b>Earlier mark</b>	<b>Application</b>
<p>Class 37: <i>Car valet services, vehicle valeting [cleaning] services, car wash services, car cleaning services, polishing (Vehicle), polishing [cleaning] of vehicles, vehicle polishing, minor vehicle repairs including repairs to dents, chips and upholstery; information and advisory services relating to all the aforesaid services.</i></p>	<p>Class 37: <i>Valeting, cleaning and polishing services for vehicles, aircraft, boats and sea going vessels; car valet services; car wash services; car cleaning services; repairs to dents, chips and upholstery for vehicles, aircraft, boats and sea going vessels; information and advisory services relating to all the aforesaid services.</i></p> <p>Class 40: <i>Application of wear resistant coatings and sealants to vehicles, aircraft, boats, sea going vessels; air deodorising, air</i></p>

	<p><i>freshening; fabric treatment; finishing and coating of textiles; application of protective coatings to leather; information and advisory services relating to all the aforesaid services.</i></p>
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13. In *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T-33/05, the General Court (“GC”) stated that:

“29. In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by trade mark application (Case T-388/00 *Institut für Lernsysteme v OHIM- Educational Services (ELS)* [2002] ECR II-4301, paragraph 53) or where the goods designated by the trade mark application are included in a more general category designated by the earlier mark”.

Applying this to the parties’ services, the applicant’s *valeting, cleaning and polishing services for vehicles* cover the opponent’s *vehicle valeting [cleaning] services, polishing [cleaning] of vehicles*; whilst the opponent’s services cover the applicant’s *car valet services; car wash services; car cleaning services*. The applicant’s *repairs to dents, chips and upholstery for vehicles* covers the opponent’s *minor vehicle repairs including repairs to dents, chips and upholstery*. These services are all identical, as are the parties’ respective information and advisory services which relate to all the above.

14. The remainder of the applicant’s services in class 37 are those relating to aircraft, boats and sea going vessels. In comparing the respective specifications, all relevant factors should be considered, as per *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc.* where the CJEU stated at paragraph 23 of its judgment:

“In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, inter alia, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary.”

Additionally, the criteria identified in *British Sugar Plc v James Robertson & Sons Limited* (“Treat”) [1996] R.P.C. 281 for assessing similarity between goods and services also include an assessment of the channels of trade of the respective goods or services.

15. ‘Complementary’ was defined by the GC in *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)* Case T-325/06:

“82 It is true that goods are complementary if there is a close connection between them, in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods lies with the same undertaking...”.

In *Sanco SA v OHIM*, Case T-249/11, the GC indicated that goods and services may be regarded as 'complementary' and therefore similar to a degree in circumstances where the nature and purpose of the respective goods and services are very different, i.e. *chicken* against *transport services for chickens*. The purpose of examining whether there is a complementary relationship between goods/services is to assess whether the relevant public are liable to believe that responsibility for the goods/services lies with the same undertaking or with economically connected undertakings. As Mr Daniel Alexander Q.C. noted, sitting as the Appointed Person in *Sandra Amelia Mary Elliot v LRC Holdings Limited*, BL O/255/13:

"It may well be the case that wine glasses are almost always used with wine – and are, on any normal view, complementary in that sense - but it does not follow that wine and glassware are similar goods for trade mark purposes."

Whilst on the other hand:

".....it is neither necessary nor sufficient for a finding of similarity that the goods in question must be used together or that they are sold together."

16. In *YouView TV Ltd v Total Ltd* [2012] EWHC 3158 (Ch) at [12] Floyd J said:

"... Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise: see the observations of the CJEU in Case C-307/10 *The Chartered Institute of Patent Attorneys (Trademarks) (IP TRANSLATOR)* [2012] ETMR 42 at [47]-[49]. Nevertheless the principle should not be taken too far. Treat was decided the way it was because the ordinary and natural, or core, meaning of 'dessert sauce' did not include jam, or because the ordinary and natural description of jam was not 'a dessert sauce'. Each involved a straining of the relevant language, which is incorrect. Where words or phrases in their ordinary and natural meaning are apt to cover the category of goods in question, there is equally no justification for straining the language unnaturally so as to produce a narrow meaning which does not cover the goods in question."

17. In *Avnet Incorporated v Isoact Limited*, [1998] F.S.R. 16, Jacob J. (as he then was) stated that:

"In my view, specifications for services should be scrutinised carefully and they should not be given a wide construction covering a vast range of activities. They should be confined to the substance, as it were, the core of the possible meanings attributable to the rather general phrase."

18. The opponent submits that its term *vehicles* covers the applicant's aircraft, boats and sea going vessels, whilst the applicant submits that sea going vessels are not vehicles and that the generic name for a ship or boat is a vessel. In my view, the ordinary and natural meaning to the average consumer of 'vehicle' is that it is land-based. Therefore, the applicant's services in class 37 which related to aircraft, boats and sea going vessels are not identical to the opponent's services which relate to

vehicles. Having said that, cleaning, valeting, polishing and repair services for aircraft, boats and sea going vessels, and advisory/information services relating thereto, are highly similar to those relating to vehicles. Although the nature may differ on a strict interpretation, the users are likely to be the same or at least overlap, and the purpose is the same (to clean and repair). There may also be competition: cleaners of one type of conveyance may be procured to clean another; e.g. those cleaning motorhomes may also clean boats.

19. The applicant's class 40 services, *application of wear resistant coatings and sealants to vehicles, aircraft, boats, sea going vessels; air deodorising, air freshening; fabric treatment; finishing and coating of textiles; application of protective coatings to leather; information and advisory services relating to all the aforesaid services*, are highly similar to the opponent's class 37 services. The same undertaking is likely to provide, for example, fabric treatment and application of protective coatings to leather as providing repairs to upholstery. Likewise, the same undertaking, already in the process of repairing dents and chips and polishing, will be applying wear resistant coatings and sealants. All the class 40 services are highly complementary to the opponent's class 37 services. The nature of the services are similar, as are the purposes. The users will be identical. They are highly similar services.

#### Average consumer

20. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purpose of assessing the likelihood of confusion, it must be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods or services in question: *Lloyd Schuhfabrik Meyer, Case C-342/97*.

21. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J. described the average consumer in these terms:

“60. The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The words “average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median.”

22. The average consumer for the parties' services will be either a member of the general public, or a business operating vehicles, boats or aircraft. In either case the level of attention paid to choosing the service will be of an average to good level, depending on the service; for example a lesser amount of attention will be paid for straightforward car washing compared to repairing dents and upholstery. The purchasing process will be primarily visual, such as after researching websites or advertisements, but I do not ignore the potential for aural reference to the marks, such as after a verbal recommendation.

Comparison of marks

23. 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 Court of Justice of the European Union 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.”

24. It is necessary to take into account the distinctive and dominant components of the marks and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions created by the marks.

25. The respective marks are:

Earlier mark	Application
	

26. Both marks involve a similar format: a strap line which is purely a description of the services offered and, above the strapline, a much larger word element which forms, by far, the dominant element of each mark. The applicant’s mark contains star devices, but the overall impression of the mark is of the word SPOTLESS because the stars are small, carrying less weight than the word. The straplines in each mark are completely descriptive and carry no distinctive weight in the overall impression of the marks. The overall impression of the opponent’s mark is of the words SPOT and LESS, albeit joined by a hyphen to approximate the well known word SPOTLESS.

27. The straplines will be given little attention when the marks are encountered visually as they are completely descriptive (the strapline in the application is also written in very small lettering). There is a medium degree of visual similarity

between the marks as their dominant elements consist of the same letters in the same order, but there are also points of difference: the hyphen, the stars, the fonts and the colours. None of these are remarkable and, individually, they would not form much of an impression upon the eye of the average consumer. Aurally, leaving aside the straplines for the reasons already stated, and because the average consumer is unlikely to articulate them since the marks can be referred to more simply by their dominant elements, the marks are identical.

28. The concept of the application is of the ordinary meaning of the adjective spotless, reinforced by the stars which give the appearance of gleaming letters. Collins English Dictionary (2014 Edition) gives the definition as being “free from stains; immaculate”; in other words, ‘without a spot’. This literal meaning of without a spot is reflected in the use of the hyphen between ‘spot’ and ‘less’ in the earlier mark, separating the two elements of spotless, which gives emphasis to the literal meaning of the conjunction of the two words. The parties’ marks are semantically near-identical, if not identical.

#### Likelihood of confusion

29. Deciding whether there is a likelihood of confusion is not scientific; it is a matter of considering all the factors, weighing them and looking at their combined effect, in accordance with the authorities set out earlier in this decision. One of the principles in the authorities states that a lesser degree of similarity between goods and services may be offset by a greater degree of similarity between the trade marks, and vice versa (*Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc.*). The parties’ services are identical or highly similar, and their marks are visually similar to a medium degree, aurally identical and conceptually near-identical. Similarity of marks and services are two of the relevant factors in the global assessment as to whether there is a likelihood of confusion. The distinctiveness of the earlier mark is also a consideration because there is a greater likelihood of confusion where an earlier mark has a highly distinctive character (either per se or because of the use that has been made of it).

30. In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*<sup>11</sup> the CJEU stated that:

“22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-0000, paragraph 49).

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not

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<sup>11</sup> Case C-342/97.

contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51).”

There is no evidence of the kind described in paragraph 23 of *Lloyd*, so I can only consider the distinctiveness of the mark from the inherent position, making the assessment set out in paragraph 22 of *Lloyd*.

31. The applicant has filed evidence of nine other valeting companies using the word SPOTLESS in their business names. Use by other traders of similar brand names does not, of itself, mean that there is no likelihood of confusion between two specific marks. Nor can it lead to a finding that the earlier mark has no distinctive character: the earlier mark is registered. The judgment of the CJEU in *Formula One Licensing BV v OHIM* Case C-196/11P indicates that a registered trade mark must be considered to have at least a minimum degree of distinctive character. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are suggestive or allusive to a characteristic of the goods/services, to those with high inherent distinctive character, such as invented words which have no allusive qualities (KODAK is the paradigm example). I put the opponent’s mark at the very low end of the scale because, for the services provided, SPOTLESS (without the hyphen) describes the effect obtained by using the service: cleaning and repair services which provide a spotless result. It is not, therefore, a surprise that the applicant has been able to find other valeting services using the word SPOTLESS, presented in various ways, in their business names since the word conveys a message about the efficacy of the cleaning and repair provided.

32. Notwithstanding this, I must bear in mind in making the global assessment that the CJEU, in *L’Oréal SA v OHIM* Case C-235/05 P, stated:

“43 It must therefore be held that the applicant has misconstrued the concepts which govern the determination of whether a likelihood of confusion between two marks exists, by failing to distinguish between the notion of the distinctive character of the earlier mark, which determines the protection afforded to that mark, and the notion of the distinctive character which an element of a complex mark possesses, which is concerned with its ability to dominate the overall impression created by the mark.

...

45 The applicant’s approach would have the effect of disregarding the notion of the similarity of the marks in favour of one based on the distinctive character of the earlier mark, which would then be given undue importance. The result would be that where the earlier mark is only of weak distinctive

character a likelihood of confusion would exist only where there was a complete reproduction of that mark by the mark applied for, whatever the degree of similarity between the marks in question. If that were the case, it would be possible to register a complex mark, one of the elements of which was identical with or similar to those of an earlier mark with a weak distinctive character, even where the other elements of that complex mark were still less distinctive than the common element and notwithstanding a likelihood that consumers would believe that the slight difference between the signs reflected a variation in the nature of the products or stemmed from marketing considerations and not that that difference denoted goods from different traders.”

33. Accordingly, owing to the dominance of the common elements and the closeness of the services provided, there is a likelihood of confusion. The opposition succeeds.

### **Outcome**

34. The opposition succeeds.

### **Costs**

35. The opponent has been successful and is entitled to a contribution towards its costs, in line with the scale of costs published in Tribunal Practice Notice 4/2007. The opponent has not had the cost of professional legal representation, which the scale figures reflect; consequently, it is appropriate to reduce the amount awarded so as not to over-compensate the opponent. The evidence the opponent filed did not assist its case, which has been won on the basis of mark-to-mark comparison in accordance with the legal authorities. The breakdown of costs is as follows:

Filing the opposition, including the statutory fee of £100	£200
Considering the applicant's evidence and filing submissions	£200
<b>Total</b>	<b>£400</b>

36. I order Spotless Franchising Ltd to pay Spotless Professional Valeting Services Limited the sum of £400 which, in the absence of an appeal, should be paid within fourteen days of the expiry of the appeal period.

**Dated this 3<sup>rd</sup> day of September 2015**

**Judi Pike  
For the Registrar,  
the Comptroller-General**