

O-357-11

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NO 2505933
BY CARZ FOR KIDS LTD TO REGISTER THE TRADE MARK**

The word "CARZ" is rendered in a bold, black, textured font. The letters are thick and have a grainy, stippled appearance. The 'C' is a simple circle, while the 'A', 'R', and 'Z' have more complex, blocky shapes with some internal texture. The overall style is reminiscent of a stamp or a heavy-duty print.

IN CLASSES 29 AND 30

**AND IN THE MATTER OF OPPOSITION
THERE TO UNDER NO 99117
BY DISNEY ENTERPRISES INC**

TRADE MARKS ACT 1994

**IN THE MATTER OF application No. 2505933
by Carz For Kids Ltd to register the trade mark**

in Classes 29 and 30

and

**IN THE MATTER OF Opposition thereto under No. 99117
by Disney Enterprises Inc**

1) On 8 January 2009, Carz Nibbles Ltd applied under the Trade Marks Act 1994 for registration of the above shown mark in respect of goods in Class 29 and Class 30.

2) The name of the company was subsequently changed to Carz For Kids Ltd ("the applicant").

3) The application was published in the Trade Marks Journal on 20 February 2009 and on 20 May 2009, Disney Enterprises Inc ("the opponent") filed notice of opposition to the application.

4) The applicant subsequently filed a counterstatement denying the opponent's claims. Only the opponent filed evidence in these proceedings.

5) By letter of 17 August 2011, Simon Leak, previously director of the applicant, informed the Registrar that the it was in liquidation. Checks subsequently carried out on behalf of the Registrar found that the applicant was dissolved as a company on 2 August 2011. The Registrar accordingly wrote to the Treasury Solicitor since the trade mark, as property, may be vested with the Crown by way of *bona vacantia*.

6) In the meantime, the matter came to be heard on 31 August 2011 when the opponent was represented by Simon Malynicz of Counsel, instructed by S J Berwin LLP. At the hearing, I informed Mr Malynicz that I would write again to the Treasury Solicitor to ascertain its position as to costs and to obtain confirmation that the trade mark was *bona vacantia*. The Treasury Solicitor confirmed that it would take no action to assert or defend the actions; it simply took any beneficial property and rights owned by the applicant at the date of its dissolution. The Treasury Solicitor does not wish to become involved in the proceedings, but has not disclaimed its rights in the mark. Subsequently, Mr Leak confirmed that as

the applicant had never traded, no liquidator was appointed with the applicant company being struck off the Company Register. He also stated that the trade mark application was not assigned to a third party.

7) In light of these circumstances and in the absence of any security for costs, I exercise the power vested in me by Rule 68 that states:

68.—(1) The registrar may require any person who is a party in any proceedings under the Act or these Rules to give security for costs in relation to those proceedings; and may also require security for the costs of any appeal from the registrar's decision.

(2) In default of such security being given, the registrar, in the case of the proceedings before the registrar, or in the case of an appeal, the person appointed under section 76 may treat the party in default as having withdrawn their application, opposition, objection or intervention, as the case may be.

8) Accordingly, the trade mark application is treated as having been withdrawn and I order that it is struck off the Register.

Dated this 19th day of October 2011

**Mark Bryant
For the Registrar,
the Comptroller-General**