

O-151-16

SUPPLEMENTARY DECISION

TRADE MARKS ACT 1994

**IN THE MATTER OF TRADE MARK APPLICATION 3020261
BY CARE IN BATHING LIMITED
TO REGISTER THE FOLLOWING TRADE MARK IN CLASSES 10, 11, 37 & 42:**

Aquanova

AND

**OPPOSITION THERETO (NO. 401462) BY
AQUANOVA B.V.**

Background and pleadings

1. On 3 December 2015 I issued a provisional decision in these proceedings, partially upholding the opposition. The decision was provisional because I sought from the parties submissions on a proposed specification in class 42 which would avoid the opposition succeeding in that class. I gave an indication of a possible form of specification which the applicant then adopted as its proposal, save for one punctuation change which does not change the nature of what I indicated. The opponent did not comment.
2. In view of the above, I accept the proposal made.

Outcome

3. Given the class 42 specification now accepted by me, together with the goods and services for which I had already indicated as acceptable, the application may, subject to appeal, proceed to registration for:

Class 10: Bathing systems in the form of hoists and lifting aids for those with special needs, such as patients and invalids; medical apparatus and equipment for use in assisted bathing; medical apparatus and equipment for manoeuvring those with special needs, such as patients and invalids into and out of baths, spas and showers; seats, grab rails and head rests for baths, spas and showers; splash back panels; parts of all the aforesaid goods.

Class 11: Bathing systems, supplied or installed, in the form of baths and showers for those with special needs, such as patients and invalids together with any sanitary or hydrotherapy accessories as an integral part of the bath.

Class 37: Installation, maintenance, repair and servicing of bathing systems for those with special needs.

Class 42: Assisted bathroom design services, design services relating to baths, design services relating to the installation of baths, showers; planning (design) of bathrooms; all relating to the design of bathrooms which incorporate bathing systems for people with special needs, such as patients and invalids.

Appeal period and costs

4. This supplementary decision triggers the appeal period, which will be set in the accompanying letter. Costs were dealt with in my previous decision in which I ordered Aquanova BV to pay Care in Bathing Limited the sum of £1700 within fourteen days of the expiry of the appeal period (which is now triggered) or within fourteen days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 22nd day of March 2016

**Oliver Morris
For the Registrar,
The Comptroller-General**