

O-226-19

TRADE MARKS ACT 1994

**IN THE MATTER OF UK REGISTRATION NO. 3241327
IN THE NAME OF GEOFFREY DEANE AND PAUL GENDLER
FOR THE TRADE MARK**

Modern Romance

IN CLASS 41

AND

**THE APPLICATION FOR A DECLARATION OF INVALIDITY THERETO
UNDER NO. 502011
BY ANDROS KYRIAKOU**

BACKGROUND AND PLEADINGS

1. This case is a dispute between two members of a band over the use of the band's name. The two members are Geoffrey Deane and Andros Kyriakou; the band is called MODERN ROMANCE.

2. On 4 July 2017, Geoffrey Deane¹ ("the holder") applied for the word mark Modern Romance, for the following services:

Class 41: *Live performances by a musical band; musical group entertainment services.*

3. The application achieved registration on 29 September 2017. On 12 March 2018, Andros Kyriakou ("the cancellation applicant") applied for a declaration that the mark is invalid. The single ground of invalidation is that the registration offends under Section 5(4)(a) of the Trade Marks Act 1994 ("the Act") due to the goodwill Mr Kyriakou had acquired in the earlier non-registered mark MODERN ROMANCE since 13 May 1999 in respect of *live performances by a musical band and musical group entertainment services*. It is claimed that Mr Kyriakou has been performing in a band called MODERN ROMANCE throughout the UK since 1999 and has promoted the band via a website since 2000. Use of the contested mark would amount to a misrepresentation to the relevant public and result in damage to Mr Kyriakou's reputation and goodwill.

4. Mr Deane filed a counterstatement in which he denies the claims made. He makes the following statements:

- he created the mark MODERN ROMANCE and was the co-founder of the band called MODERN ROMANCE which was set up in 1980;
- his use of the mark in 1980 was earlier than that claimed by Mr Kyriakou;
- any goodwill associated with the mark is attributable to him, not to Mr Kyriakou.

¹ Paul Gendler is the co-owner of the mark but is not a party to these proceedings. Lewis Silkin LLP is representing both co-owners, Geoffrey Deane and Paul Gendler, and the Form TM8 and counterstatement filed by Lewis Silkin LLP on 23 May 2018 was filed on behalf of both co-owners.

5. Both parties have been professionally represented throughout these proceedings. Both parties filed evidence. The matter came to be heard on 8 March 2019, when Mr Kyriakou was represented by Mr Charles Brabin of Counsel, instructed by Healys LLP. Mr Deane did not attend, was not represented and did not file written submissions in lieu of attendance.

THE CANCELLATION APPLICANT'S EVIDENCE

6. This takes the form of a witness statement by Mr Kyriakou. His evidence covers the history of the band and the history of his disputes with Mr Deane. Mr Kyriakou states that he is the lead singer of the band MODERN ROMANCE, a position he has held since he reformed the band in 2001. The main points emerging from Mr Kyriakou's evidence are as follows:

- The original band was formed in 1980 by Geoffrey Dean and David Jaymes. This coincides with the first use of the mark MODERN ROMANCE;
- Mr Kyriakou joined the band in the beginning of 1981 as a drummer. Prior to that, the band had produced only two singles which were not successful. Paul Gendler joined the band as a guitarist a couple of months before Mr Kyriakou;
- On 30 August 1982, Geoffrey Deane left the band to pursue solo projects. When he left, he agreed with Mr Jaymes that he would receive a percentage of record royalties and a sum of money. Exhibit AK1 consists of a screenshot of a Facebook message sent by Mr Deane to Mr Kyriakou on 15 June 2010. It states: *"Very interesting to see that you appropriated the name Modern Romance for gigs and records. Might I remind you while you were the band drummer you were also a paid employee. Modern Romance was formed by myself and David Jaymes. I devised the name and the group's Latin American direction. When I left I made a deal with Dave in which he got the group name and I got a % of future royalties. Dave never kept his side of the deal so I have long regarded that agreement as null and void. Either way it's owned by myself or Dave or a combination of both. Certainly not by you"*;
- The band continued to perform and make records after August 1982. Its biggest single "Best Years of Our Lives" was released in October 1982 (this

reached number 4 in the UK Chart) and its most successful album “Party Tonight” in December 1983 (this reached number 45 in the UK Chart and sold over 100,000 copies). In 1983 the band released 3 other successful singles, “High Life”, “Don’t Stop that Crazy Rhythm” and “Walking in the Rain” which reached number 7, number 8 and number 14 in the UK Chart respectively;

- After Mr Deane left, Mr Kyriakou co-wrote MODERN ROMANCE’s second album and the title track for its third album. He also provided backing vocals to Mr Deane’s replacement singer;
- Mr Kyriakou remained in the band until 1986, when the band split;
- Between 1986 and 1999 Mr Jaymes used the name MODERN ROMANCE for music performances sporadically. During this time Mr Kyriakou worked as a session musician;
- On 13 May 1999, Mr Jaymes assigned the exclusive right to use the name MODERN ROMANCE to Mr Kyriakou. A copy of that assignment is exhibited at AK2. It states that Mr Jaymes gave Mr Kyriakou *“exclusive rights [...] for the name MODERN ROMANCE to be adopted by Mr Kyriakou for the purpose of touring, the recording of new material and original material, advertising, promotion and merchandising, without any form of compensation or remuneration to [Mr Jaymes] whatsoever”* and that the agreement was made on the understanding that Mr Jaymes was *“acting solely on his behalf”* and *“did not accept any responsibility or liability for any actions which may arise from the opposition of the use of the name [MODERN ROMANCE], whether such opposition and/or actions be instigated by other former [MODERN ROMANCE] members, managers, or any other party”*.
- Mr Kyriakou was aware that there was an agreement between Mr Deane and Mr Jaymes (as regards the use of the name) and had no reason to doubt that Mr Jaymes had acquired rights in the name;
- In 1999, following the assignment, Mr Kyriakou set up a reformed MODERN ROMANCE band and took on the role of lead vocalist. Whilst Mr Jaymes was happy to allow Mr Kyriakou to reform the band he did not want to become a member. Mr Kyriakou began promoting the new band and arranged shows and appearances. From 2000 until October 2017 the website www.modern-romance.com was used to promote the band;

- MODERN ROMANCE has toured throughout the UK (and abroad) since 1999. Exhibit AK4 is a list of “gigs” played and appearances made by MODERN ROMANCE between 2001 and 2017. Mr Kyriakou explains that the list is non-exhaustive because of the lapse of time and because he did not expect this dispute to arise. The list details a number of gigs held in various locations in the UK, that is 9 gigs in 2001, 1 in 2002, 1 in 2003, 5 in 2004, 2 in 2005, 2 in 2007, 5 in 2008, 3 in 2009, 2 in 2010, 5 in 2011, 4 in 2012, 4 in 2013, 1 in 2014, 6 in 2015, 2 in 2016 and 10 in 2017 (of which 6 were between January and June). Copies of posters promoting MODERN ROMANCE’s participation at festivals and events are also exhibited. They include the following: 80s Rewind Festival (2010)², The Retro Festival (Dalkeith - June 2018); Lets Rock – the Family Friendly 80’s Festival (Bristol - June 2013); The 80s Music Festival (Peterborough - June 2017); Sunshine Music Festival (Worcestershire - August 2017); Greenacres 07 (England - July 2007); New Quay Music Festival (2009); Retro Festival (Lanarkshire – Scotland - 29, 30, 31 August³); School Fields (Clapham Common - July 2002); Happy Days Festival (Surrey – 2,3 June⁴); Love Music Festival (Cornwall - September 2013); 80s Weekend (Southport - March 2017). There is no evidence as to how many people attended those concerts, but Mr Kyriakou says that some were highly acclaimed revival festivals and that its band played along other well-known artists such as Boy George, Go West, T’Pau, Rick Astley, Heaven 17 and Toyah; some of those names appear in the material exhibited;
- In 2002 MODERN ROMANCE released the album “Back on Track”, which consisted mostly of re-recording of the original hits. Attached at Exhibit AK5 is a screenshot showing the album for sale;
- The new MODERN ROMANCE band recorded various songs with Mr Kyriakou vocals, which appeared on various compilation albums including original tracks. Exhibit AK6 consists of copies of album covers and track listing. These are undated, but show various copyright dates in 2002, 2003, 2004 and 2014;

² No location is provided

³ No year is shown but Kyriakou says it was in Henley-on-Thames

⁴ No year is shown

- Mr Kyriakou participated in a documentary aired by the BBC in 2004-2005 about MODERN ROMANCE and promoted a MODERN ROMANCE platinum Collection in 2006;
- The gross annual income generated by the reformed band is in the region of £80K. Mr Kyriakou says that between 1999 and the date of the witness statement *“the income from Modern Romance has been [his] main source of income”* though he does not provide specific figures per annum. Mr Kyriakou has spent in the region of £35K recording and producing a new MODERN ROMANCE album;
- In 2010 Mr Kyriakou incorporated Modern Romance Limited, of which he is the Director;
- Mr Kyriakou was shocked to discover that Mr Deane had registered the mark MODERN ROMANCE in 2017 as he had shown no interest in the mark since his departure in 1982;
- Mr Deane had since contacted a number of agents who had booked Mr Kyriakou’s band threatening to pursue them for trade mark infringement. As a result of Mr Deane’s intervention, one agent proceeded to cancel a booking and issued court proceedings against Mr Kyriakou.

THE HOLDER’S EVIDENCE

7. This consists of a witness statement from Mr Geoffrey Deane. It aims to demonstrate that (i) Mr Deane’s use of the mark MODERN ROMANCE is earlier than that of Mr Kyriakou and (ii) Mr Deane’s registered mark possesses the necessary reputation and goodwill to rebut Mr Kyriakou’s passing off claim. Mr Deane’s evidence is that:

- Mr Deane formed the band MODERN ROMANCE. He chose the name and was the band’s lead singer, main songwriter and co-producer. The band enjoyed a chain of big hits beginning with “Tonight” which was released in 1980. They were pop stars, were on the TV and radio constantly in the UK and abroad, toured regularly and were covered extensively in all forms of media;

- Mr Deane describes David Jaymes as his right-hand man. Their first album was released in 1981;
- When Mr Deane left MODERN ROMANCE in 1982 to pursue a range of solo projects, he made an agreement with Mr Jaymes. Mr Deane was unable to locate the contract; however, he recalls having received an initial lump sum payment of approximately £10K and being agreed that he would receive 15% of royalties for “*continued use of the MODERN ROMANCE name*”. That contractual arrangement was never honoured or fulfilled, and Mr Deane did not receive any further payment;
- On leaving the band, Mr Deane appointed his own replacement, Mick Mullins. Mr Deane also co-wrote “Best Years of Our Lives” with Mr Jaymes, which would be MODERN ROMANCE’s next single and biggest hit;
- After Mr Deane left the band, he saw Mr Jaymes only once in the mid-eighties, but business was not discussed;
- Mr Deane challenges the authenticity of the assignment document exhibited by Mr Kyriakou at exhibit AK2 but gives no specific reasons for it;
- Mr Kyriakou’s website was not set up until 9 July 2003. Exhibit GD-3 is a copy of the domain registration;
- Mr Kyriakou joined the band as a drummer in 1981; he was a paid employee on a regular modest wage and was not signed to the band’s record company. Mr Kyriakou had no say in the running of the band as this was Mr Deane and Mr Jaymes’ responsibility, he did not write songs nor did he sing on the records;
- In 1985 the band slipped from popularity and eventually broke up;
- Mr Deane learned that MODERN ROMANCE was performing again in 2010 and discovered that it was Mr Kyriakou, not Mr Jaymes. Mr Deane points out that Mr Kyriakou was playing many of the songs that he had written and performed and that he entrusted the band name and trade mark to Mr Jaymes and would have never agreed for anyone else to have rights in the name;
- Mr Deane tried to find Mr Kyriakou’s contact details for some time to object the matter. He eventually found him on Facebook and sent him a message to which he received no response;
- In 2016 Mr Deane was asked to write and produce a record for the Indy artist Lisa Ronson; he asked Paul Gendler, the original MODERN ROMANCE

guitarist, to get involved. Since then, Mr Deane and Mr Gendler have kept in touch and in 2017 they decided to start touring under the name MODERN ROMANCE and applied to register the mark. No further information or evidence is provided as regards to whether any touring activities have taken place;

- Mr Deane and Mr Gendler tried to register MODERN ROMANCE as a limited company but were unable to do so because Mr Kyriakou had already registered it. Following this, they wrote to Mr Kyriakou asserting their rights in the name but received no reply and subsequently wrote to several agents and promoters of Mr Kyriakou's band, informing them of the situations;
- Mr Deane claims that his participation in the MODERN ROMANCE project has continued from 1980 until present. He has received regular payments over the last 40 years from Performing Rights Society, BMG-Sony and Warner Chappell from the songs he wrote whilst he was in the band. He also regularly communicated with publishers regarding usage of the MODERN ROMANCE material and has been involved in many important decision-making processes and negotiations, for example, the use of "Best Years of Our Lives" in the first "Shrek" movie and usage of samples from their records on new releases such as the big dance hit "Destination Unknown" with Crystal Water.

MR KYRIAKOU'S EVIDENCE IN REPLY

8. Mr Kyriakou's second witness statement is intended to counter some of the arguments/statements made by Mr Deane. Mr Kyriakou states that:

- MODERN ROMANCE did not have a hit record until he joined the band. The single "Tonight" was one of two successive flops and MODERN ROMANCE's first hit was the third single "Everybody Salsa". It was Mr Kyriakou's suggestion to perform personal appearances which led to the success of the band;
- Mr Deane did not appoint Mick Mullins as his successor. Exhibit AK7 is a copy of an email (allegedly) from Mr Jaymes (the full email address is redacted) to Mr Kyriakou dated 19 October 2018 confirming this;

- Mr Deane had no involvement in MODERN ROMANCE since 1982 and was aware that Mr Kyriakou had been using the name MODERN ROMANCE since at least 2010 (when he contacted him via Facebook);
- Mr Deane's claim that he was unable to track Mr Kyriakou down is disputed since a simple Google search for MODERN ROMANCE would have brought up Mr Kyriakou's website promoting the band.

THE HEARING

9. On 6 March 2019, two days before the hearing, I received a third witness statement from Mr Kyriakou dated 5 March 2019. Mr Kyriakou states that in January 2019 Mr Deane performed a gig in Bognor Regis using the name MODERN ROMANCE. He exhibits a copy of a Twitter message (exhibit AK8) he received from someone (to whom I shall refer to as XX) who attended the gig. It states: XX: *"We saw Modern Romance in Dec at Butlins LOVED YOU. Modern Romance at Butlins last night...NOT YOU?? are there ???"* Mr Kyriakou: *"Unfortunately there are two as of a year ago but there will be a court hearing soon to sort it out. Have you seen us?"* XX: *"We saw you in Dec at Electric Dreams Bognor Butlins. Loved it ...Last night..."Other" group performed...Hated it [...] was expecting to see your band again big disappointment & Butlins for not rebooking you"*. Mr Kyriakou also accepts that, upon reflection, the website was registered in 2003. A copy of the new evidence was forwarded by the Tribunal to Mr Deane; no representations were made about its reception nor is it challenged in any way. Mr Kyriakou claims that it supports that there would be confusion and deception. Further, it had come to light after the evidence rounds were completed so there were good reasons as to why it had not been filed earlier. I therefore admitted the evidence.

SECTION 5(4)(a)

10. Section 5(4)(a) states:

"A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented –

- (a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, or
- (b) [.....]

A person thus entitled to prevent the use of a trade mark is referred to in this Act as the proprietor of “an earlier right” in relation to the trade mark.”

11. Section 5(4)(a) is relevant in invalidation because of Section 47, the relevant part of which reads:

“47. – (1) [...]

(2) The registration of a trade mark may be declared invalid on the ground-

- (a) [...]
- (b) that there is an earlier right in relation to which the condition set out in section 5(4) is satisfied,

unless the proprietor of that earlier trade mark or other earlier right has consented to the registration.”

12. In *Discount Outlet v Feel Good UK*, [2017] EWHC 1400 IPEC, Her Honour Judge Melissa Clarke, sitting as a deputy Judge of the High Court, conveniently summarised the essential requirements of the law of passing off as follows:

“55. The elements necessary to reach a finding of passing off are the ‘classical trinity’ of that tort as described by Lord Oliver in the Jif Lemon case (*Reckitt & Colman Product v Borden* [1990] 1 WLR 491 HL, [1990] RPC 341, HL), namely goodwill or reputation; misrepresentation leading to deception or a likelihood of deception; and damage resulting from the misrepresentation. The burden is on the Claimants to satisfy me of all three limbs.

56. In relation to deception, the court must assess whether "*a substantial number*" of the Claimants' customers or potential customers are deceived, but it is not necessary to show that all or even most of them are deceived (per *Interflora Inc v Marks and Spencer Plc* [2012] EWCA Civ 1501, [2013] FSR 21)."

13. Halsbury's Laws of England Vol. 97A (2012 reissue) provides further guidance with regard to establishing the likelihood of deception. In paragraph 309 it is noted (with footnotes omitted) that:

"To establish a likelihood of deception or confusion in an action for passing off where there has been no direct misrepresentation generally requires the presence of two factual elements:

(1) that a name, mark or other distinctive feature used by the plaintiff has acquired a reputation among a relevant class of persons; and

(2) that members of that class will mistakenly infer from the defendant's use of a name, mark or other feature which is the same or sufficiently similar that the defendant's goods or business are from the same source or are connected.

While it is helpful to think of these two factual elements as successive hurdles which the plaintiff must surmount, consideration of these two aspects cannot be completely separated from each other, as whether deception or confusion is likely is ultimately a single question of fact.

In arriving at the conclusion of fact as to whether deception or confusion is likely, the court will have regard to:

(a) the nature and extent of the reputation relied upon;

(b) the closeness or otherwise of the respective fields of activity in which the plaintiff and the defendant carry on business;

(c) the similarity of the mark, name etc. used by the defendant to that of the plaintiff;

(d) the manner in which the defendant makes use of the name, mark etc. complained of and collateral factors; and

(e) the manner in which the particular trade is carried on, the class of persons who it is alleged is likely to be deceived and all other surrounding circumstances.”

In assessing whether confusion or deception is likely, the court attaches importance to the question whether the defendant can be shown to have acted with a fraudulent intent, although a fraudulent intent is not a necessary part of the cause of action.”

THE RELEVANT DATE

14. In *Advanced Perimeter Systems Limited v Multisys Computers Limited*, BL O-410-11, Mr Daniel Alexander QC as the Appointed Person considered the relevant date for the purposes of Section 5(4)(a) of the Act and concluded as follows:

“39. In *Last Minute*, the General Court....said:

‘50. First, there was goodwill or reputation attached to the services offered by LMN in the mind of the relevant public by association with their get-up. In an action for passing off, that reputation must be established at the date on which the defendant began to offer his goods or services (*Cadbury Schweppes v Pub Squash* (1981) R.P.C. 429).

51. However, according to Article 8(4) of Regulation No 40/94 the relevant date is not that date, but the date on which the application for a Community trade mark was filed, since it requires that an applicant seeking a declaration of invalidity has acquired rights over its non-

registered national mark before the date of filing, in this case 11 March 2000.'

40. Paragraph 51 of that judgment and the context in which the decision was made on the facts could therefore be interpreted as saying that events prior to the filing date were irrelevant to whether, at that date, the use of the mark applied for was liable to be prevented for the purpose of Article 8(4) of the CTM Regulation. Indeed, in a recent case before the Registrar, *J Sainsbury plc v. Active: 4Life Ltd* O-393-10 [2011] ETMR 36 it was argued that *Last Minute* had effected a fundamental change in the approach required before the Registrar to the date for assessment in a s.5(4)(a) case. In my view, that would be to read too much into paragraph [51] of *Last Minute* and neither party has advanced that radical argument in this case. If the General Court had meant to say that the relevant authority should take no account of well-established principles of English law in deciding whether use of a mark could be prevented at the application date, it would have said so in clear terms. It is unlikely that this is what the General Court can have meant in the light of its observation a few paragraphs earlier at [49] that account had to be taken of national case law and judicial authorities. In my judgment, the better interpretation of *Last Minute*, is that the General Court was doing no more than emphasising that, in an Article 8(4) case, the *prima facie* date for determination of the opponent's goodwill was the date of the application. Thus interpreted, the approach of the General Court is no different from that of Floyd J in *Minimax*. However, given the consensus between the parties in this case, which I believe to be correct, that a date prior to the application date is relevant, it is not necessary to express a concluded view on that issue here.

41. There are at least three ways in which such use may have an impact. The underlying principles were summarised by Geoffrey Hobbs QC sitting as the Appointed Person in *Croom's TM* [2005] RPC 2 at [46] (omitting case references):

- (a) The right to protection conferred upon senior users at common law;

- (b) The common law rule that the legitimacy of the junior user's mark in issue must normally be determined as of the date of its inception;
- (c) The potential for co-existence to be permitted in accordance with equitable principles.

42. As to (b), it is well-established in English law in cases going back 30 years that the date for assessing whether a claimant has sufficient goodwill to maintain an action for passing off is the time of the first actual or threatened act of passing off: *J.C. Penney Inc. v. Penneys Ltd.* [1975] FSR 367; *Cadbury-Schweppes Pty Ltd v. The Pub Squash Co. Ltd* [1981] RPC 429 (PC); *Barnsley Brewery Company Ltd. v. RBNB* [1997] FSR 462; *Inter Lotto (UK) Ltd. v. Camelot Group plc* [2003] EWCA Civ 1132 [2004] 1 WLR 955: "date of commencement of the conduct complained of". If there was no right to prevent passing off at that date, ordinarily there will be no right to do so at the later date of application.

43. In *SWORDERS TM O-212-06* Mr Alan James acting for the Registrar well summarised the position in s.5(4)(a) proceedings as follows:

'Strictly, the relevant date for assessing whether s.5(4)(a) applies is always the date of the application for registration or, if there is a priority date, that date: see Article 4 of Directive 89/104. However, where the applicant has used the mark before the date of the application it is necessary to consider what the position would have been at the date of the start of the behaviour complained about, and then to assess whether the position would have been any different at the later date when the application was made.'

15. The challenged trade mark was applied for on 4 July 2017. This is the relevant date for assessing the issue of goodwill. Mr Deane claims prior rights dating from 1980-1982. That goes to the issue of ownership of the goodwill and will be considered below.

GOODWILL

16. In *Inland Revenue Commissioners v Muller & Co's Margarine Ltd* [1901] AC 217 (HOL):

“What is goodwill? It is a thing very easy to describe, very difficult to define. It is the benefit and advantage of the good name, reputation and connection of a business. It is the attractive force which brings in custom. It is the one thing which distinguishes an old-established business from a new business at its first start.”

17. In *South Cone Incorporated v Jack Bessant, Dominic Greensmith, Kenwyn House and Gary Stringer (a partnership)* [2002] RPC 19 (HC), Pumfrey J. stated:

“27. There is one major problem in assessing a passing of claim on paper, as will normally happen in the Registry. This is the cogency of the evidence of reputation and its extent. It seems to me that in any case in which this ground of opposition is raised the registrar is entitled to be presented with evidence which at least raises a prima facie case that the opponent's reputation extends to the goods comprised in the applicant's specification of goods. The requirements of the objection itself are considerably more stringent than the enquiry under s.11 of the 1938 Act (see *Smith Hayden & Co. Ltd's Application (OVAX)* (1946) 63 R.P.C. 97 as qualified by *BALI Trade Mark [1969] R.P.C. 472*). Thus the evidence will include evidence from the trade as to reputation; evidence as to the manner in which the goods are traded or the services supplied; and so on.

28. Evidence of reputation comes primarily from the trade and the public, and will be supported by evidence of the extent of use. To be useful, the evidence must be directed to the relevant date. Once raised, the applicant must rebut the prima facie case. Obviously, he does not need to show that passing off will not occur, but he must produce sufficient cogent evidence to satisfy the hearing officer that it is not shown on the balance of probabilities that passing off will occur.”

18. However, in *Minimax GmbH & Co KG v Chubb Fire Limited* [2008] EWHC 1960 (Pat) Floyd J. (as he then was) stated that:

“[The above] observations are obviously intended as helpful guidelines as to the way in which a person relying on section 5(4)(a) can raise a case to be answered of passing off. I do not understand Pumfrey J to be laying down any absolute requirements as to the nature of evidence which needs to be filed in every case. The essential is that the evidence should show, at least prima facie, that the opponent's reputation extends to the goods comprised in the application in the applicant's specification of goods. It must also do so as of the relevant date, which is, at least in the first instance, the date of application.”

19. Goodwill must be of more than a trivial nature. In *Hart v Relentless Records* [2002] EWHC 1984 (Ch), Jacob J. (as he then was) stated that:

“62. In my view the law of passing off does not protect a goodwill of trivial extent. Before trade mark registration was introduced in 1875 there was a right of property created merely by putting a mark into use for a short while. It was an unregistered trade mark right. But the action for its infringement is now barred by s.2(2) of the Trade Marks Act 1994. The provision goes back to the very first registration Act of 1875, s.1. Prior to then you had a property right on which you could sue, once you had put the mark into use. Even then a little time was needed, see per Upjohn L.J. in BALI Trade Mark [1969] R.P.C. 472. The whole point of that case turned on the difference between what was needed to establish a common law trade mark and passing off claim. If a trivial goodwill is enough for the latter, then the difference between the two is vanishingly small. That cannot be the case. It is also noteworthy that before the relevant date of registration of the BALI mark (1938) the BALI mark had been used “but had not acquired any significant reputation” (the trial judge's finding). Again that shows one is looking for more than a minimal reputation.”

20. However, a small business which has more than a trivial goodwill can protect signs which are distinctive of that business under the law of passing off even though its

reputation may be small. In *Stacey v 2020 Communications* [1991] FSR 49, Millett J. stated that:

“There is also evidence that Mr. Stacey has an established reputation, although it may be on a small scale, in the name, and that that reputation preceded that of the defendant. There is, therefore, a serious question to be tried, and I have to dispose of this motion on the basis of the balance of convenience.”⁵

OWNERSHIP OF THE GOODWILL IN THE NAME MODERN ROMANCE

21. Both sides claimed that they owned the goodwill in the name MODERN ROMANCE at the relevant date, i.e. 4 July 2017.

22. Mr Deane’s case is based on his assertion that he had commenced using the mark MODERN ROMANCE before Mr Kyriakou and that his registered mark possesses the necessary reputation and goodwill to rebut Mr Kyriakou’s passing-off claim. He relies upon his historical connection with the original band and the persisting reputation attached to it. His arguments are as follows. Firstly, Mr Deane was the creator, first user and driving force behind the original band and was entitled to the registration of the mark. Secondly, Mr Jaymes was not entitled to grant any legal right in the band’s name to Mr Kyriakou and even if the agreement between Mr Jaymes and Mr Kyriakou had been valid, it would equate to a licence agreement and would not have transferred the ownership of the mark to Mr Kyriakou. Thirdly, Mr Kyriakou trades on the reputation of the original band which is, by default, Mr Deane’s own reputation. Mr Deane feels that Mr Kyriakou had no right to use the name himself and to market himself as the original MODERN ROMANCE band. He also states:

“1. I believe that the above information and evidence provided demonstrates that the MODERN ROMANCE trade mark was in use by the Registrants prior to the adoption and use by the Cancellation Applicant.

⁵ See also: *Stannard v Reay* [1967] FSR 140 (HC); *Teleworks v Telework Group* [2002] RPC 27 (HC); *Lumos Skincare Limited v Sweet Squared Limited and others* [2013] EWCA Civ 590 (COA).

2. I also believe that the evidence provided demonstrates that the MODERN ROMANCE trade mark has a reputation and well-known status in the UK, which dates back to its first use in 1980. Since this date, there has been continuous use of the MODERN ROMANCE name.

3. Given the above, I believe that the average consumer would immediately associate the MODERN ROMANCE name with the services offered by the Registrants.

4. As the MODERN ROMANCE trade mark was in use by the Registrant (from 1980), and was well-known in the UK prior to the date of adoption by the Cancellation Applicant (being 1999) the Registrants are legally entitled to registration of the mark and the Registration should not be cancelled.”

23. Mr Brabin argued on behalf of Mr Kyriakou that (i) Mr Deane is not entitled to claim ownership of a senior goodwill in the name of the band and (ii) the goodwill on which Mr Deane seeks to rely is not vested in Mr Deane but in the partnership of the initial band (the band existing when Mr Deane left). In this connection, Mr Brabin relied on *Byford v Oliver* [2003] FSR 39 (*SAXON Trade Mark*) and *Gill v Frankie Goes to Hollywood Ltd*, [2008] ETMR 4, both of which were disputes between members of a band over the ownership of trade marks consisting of the band’s name; in both cases, Section 5(4)(a) was relevant. Mr Brabin referred to the following paragraphs in *SAXON*, where it was held that (a) where a band perform as partnership, the goodwill associated with the name of the band is an asset of the partnership, not of the individual members (paragraph 19); (b) the departure of a member will, in the absence of agreement to the contrary, result in the dissolution of the original partnership and formation of a new one (paragraph 26) and (c) with such dissolution of partnerships (whether through one person leaving or the partnership simply being broken up) in the absence of special circumstances to the contrary, the goodwill generated by the partnership remains owned by the partnership (paragraph 24):

“19. In my view, Mr Foley’s views as to ownership of the name SAXON and the goodwill associated with it are not correct. There is no dispute that the group was a partnership at will in the 1980’s. The name and goodwill were assets of

the partnership. All the partners have or had an interest in those and all other assets of the partnership, but that does not mean that they owned the assets themselves. Absent a special provision in the partnership agreement, the partners had an interest in the realised value of the partnership assets. On dissolution of the original partnership, which is what happened when Mr Dawson departed in 1985, he and all the other partners were entitled to ask for the partnership assets to be realised and divided between them in accordance with their respective partnership shares. But none of them “owned” the partnership assets. In particular, none of them owned the name SAXON or the goodwill built up under it. The position would be very different if all the members of the original group had been performing together, not as partners, but as independent traders. In such a case, each may well have acquired a discreet interest in the name and reputation which he could use against third parties but not against the other owners. An example of this is *Dent v Turpin* (1861)2 J&H 139. Similarly, when Mr Oliver left in 1995, the then partnership dissolved. He had an interest in the realisation of that partnership’s assets, but he did not own in whole or in part the partnership name and goodwill.”

And:

“24. It seems tolerably clear that, absent the special circumstances in that case, the goodwill and name of the partnership would have been an asset of the partnership which, on dissolution, would have had to have been sold so that its value could be realised for distribution among the former partners. None would have owned the goodwill or name. What prevented that from happening in *Burchell* was the existence of the award which had the effect of creating an agreement between the partners to the effect that they would not sell the goodwill and distribute the proceeds on dissolution but would share it as tenants in common. Once that term existed, it followed that the name of the firm under which the goodwill had been generated had to be owned by the former partners as tenants in common also. This case does not provide support for the wider proposition advanced by Mr Saunders.

25. Absent special facts such as existed in *Burchell*, the rights and obligations which arise when a group of musicians, performing in a band as a partnership, split up can be explained as follows. It is convenient to start by considering the

position when two, entirely unrelated bands perform under the same name. The first performs from, say, 1990 to 1995 and the second performs from 2000 onwards. Each will generate its own goodwill in the name under which it performs. If, at the time that the second band starts to perform, the reputation and goodwill of the first band still exists and has not evaporated with the passage of time (see *Ad-Lib Club v Granville* [1972] RPC 673) or been abandoned (see *Star Industrial Co v Yap Kwee Kor* [1976] FSR 256) it is likely to be able to sue in passing off to prevent the second group from performing under the same name (see *Sutherland v V2 Music* [2002] EWHC 14 (Ch), [2002] EMLR 28). On the other hand, if the goodwill has disappeared or been abandoned or if the first band acquiesces in the second band's activities, the latter band will be able to continue to perform without interference. Furthermore, whatever the relationship between the first and second bands, the latter will acquire separate rights in the goodwill it generates which can be used against third parties (see *Dent v Turpin* and *Parker & Son (Reading) Ltd v Parker* [1965] RPC 323). If the first band is a partnership, the goodwill and rights in the name are owned by the partnership, not the individual members, and if the second band were to be sued, such proceedings would have to be brought by or on behalf of the partnership.

26. The position is no different if the two bands contain common members. If, as here, they are partnerships at will which are dissolved when one or more partners leave, they are two separate legal entities. This is not affected by the fact that some, even a majority, of the partners in the first band become members of the second. A properly advised band could avoid the problem that this might cause by entering into a partnership agreement which expressly provides for the partnership to continue on the departure of one or more members and which expressly confirms the rights of the continuing and expressly limits the rights of departing partners to make use of the partnership name and goodwill. This is now commonplace in the partnership deed for solicitors' practices."

24. Mr Brabin also relied on the decisions of Geoffrey Hobbs QC in *Williams and Williams v Canaries Seaschool SLU (Club Sail Trade Marks)* [2010] RPC 32 and

Burdon v Steel (THE ANIMALS Trade Mark), O-369-13 for the proposition that the “last man standing” becomes solely entitled to goodwill. Further, he relied on other two recent cases involving band names, namely O-537-16 (*DANSE SOCIETY Trade Mark*) and O-767-18 (*BRIXTON SPLASH Trade Mark*).

25. Mr Brabin’s submissions were as follows:

- The initial band was a partnership at will which comprised at the very least Mr Deane and Mr Jaymes. The goodwill in the name generated by the initial band up to when Mr Deane left was vested in the partnership. Prior to Mr Kyriakou joining the band, any goodwill in the name was modest;
- Upon Mr Deane leaving the band, the initial partnership dissolved and a new partnership, comprising the remaining members of the band plus Mr Deane’s replacement, came into existence. That accrued its own goodwill. The legal status on the band and the goodwill across this period, i.e. from after Mr Deane left in August 1982 until the band split in 1986, is not clear;
- When Mr Deane left the band, he ceased to have an interest in the collectively owned goodwill. The fact that Mr Deane was a founding member of the initial band and coined the band’s name does not mean that he owned the assets of the partnership himself;
- There is no reference in the agreement between Mr Deane and Mr Jaymes to ownership or transfer of goodwill; similarly, there is no reference to the assets of the partnership being divided;
- Mr Deane’s assertion that his participation in MODERN ROMANCE continued from 1980 to the present, is not realistic in the context of goodwill and public perception, whatever agreements and permissions Mr Deane may have been involved in (which are not documented);
- Any right claimed by Mr Deane to the ownership of the goodwill in the initial band is long lost given the passage of time and his agreement with Mr Jaymes in which he signalled the end of his association with the band;
- Mr Deane does not own the goodwill in the band’s name; in any event, even if he did own a goodwill, he did not take any action against Mr Kyriakou until 2017, and prior to that, he only sent him a Facebook message in 2010;

- When Mr Kyriakou set up the new band in 1999, his activity generated goodwill which belongs to Mr Kyriakou, or alternatively to the company he set up in 2010.

DECISION

Mr Deane's rights in the name

26. The centre of this dispute is whether Mr Deane is entitled to the rights conferred by the registration of the trade mark consisting of the name of the band MODERN ROMANCE. The band was founded in 1980 by Mr Deane and Mr Jaymes. When Mr Kyriakou joined it in 1981, it was already in existence and had produced two records. Mr Deane was a member of the band from 1980 until August 1982, when he voluntarily left to pursue his own projects. Following Mr Deane's departure, the remaining members of the band continued to perform. These include Mr Jaymes, Mr Kyriakou, Mick Mullins (who replaced Mr Deane) and (it seems) Paul Gendler (who is a co-owner of the mark but is not a party to these proceedings). The period of high public exposure of the band took place shortly after Mr Deane left, between October 1982 and December 1983. Within that period the band released their most successful album, "Party Tonight" (December 1983), which sold over 100,000 copies and had a number of records in the hit parade, including their biggest single, "Best Years of Our Lives" (October 1982), which reached number 4 in the UK Chart. Mr Kyriakou remained in the band until the split in 1986.

27. When Mr Deane left the band, he made an agreement with Mr Jaymes. Mr Deane suggested that the agreement was in writing but could not find any copy of it. Apparently, it was agreed that Mr Jaymes would continue to use the band's name. Mr Deane received a lump sum payment of approximately £10K and, it said, it was agreed that he would receive a percentage of the royalties. According to Mr Deane, Mr Jaymes did not maintain his side of the deal and he did not receive any future payments, but the issue of the royalties was never addressed, not even when the two met in the mid-eighties. Ultimately, when Mr Deane approached Mr Kyriakou in 2010, he stated that he regarded that agreement as "null and void"⁶.

⁶ Exhibit AK1

28. As pointed out by Mr Brabin, although there was no agreement in place between Mr Deane and Mr Jaymes when they first set up the band in 1980, it is not disputed that the band was a partnership at will. This is supported by the evidence that Mr Jaymes was Mr Deane's right-hand man and that the running of the band was Mr Deane and Mr Jaymes' responsibility. Mr Kyriakou was a salaried employee rather than a partner. Accordingly, I find that the nucleus of the band from its inception until August 1982 (when Mr Deane left), was in the partnership between Mr Deane and that Mr Jaymes. It follows from *SAXON* that:

- i. The name and goodwill of the band were assets of the partnership;
- ii. Neither Mr Deane nor Mr Jaymes owned individually the partnership assets, that is to say none of them owned the name MODERN ROMANCE or the goodwill built up under it; this is regardless of whether Mr Deane had coined the name, since the act of inventing a name does not, of itself, create a property right protected by the law of passing off (and it is not a defence against a passing off action)⁷;
- i. When Mr Deane departed in 1982 that partnership dissolved. Mr Deane was entitled to ask for the partnership assets to be sold and the profits divided. This did not happen. However, Mr Deane settled the matter with Mr Jaymes, effectively agreeing that Mr Jaymes would continue to use the name. It was because of that agreement that Mr Jaymes and the remaining members were able to continue to use the name.

29. So, even if Mr Deane was the founder of the band and originated the name, he did not own any individual rights in the name. Furthermore, he left the band of his own accord in order to pursue his own projects and was obviously content for Mr Jaymes to continue with the band. He agreed that Mr Jaymes would have the right to use the band's name after his departure and never claimed any rights in the name for at least 28 years, i.e. since 1982 until 2010. **Accordingly, I find that when Mr Deane left the band in 1982, the goodwill generated by the partnership and the right in the name moved to Mr Jaymes. Mr Deane took no share of that goodwill and relinquished any control over the name**⁸. In this connection, I should say that even

⁷ *Harrods Limited v Harrodian School Limited* [1996] RPC 697, paragraph 791

⁸ *Gill v Frankie Goes to Hollywood Ltd*, [2008] ETMR 4

if the arrangement that stipulated the right of Mr Jaymes to continue with the band under the same name had, for whatever reason, been “null or void”, it would take matters no further forward for Mr Deane. This is because Mr Deane had left the band 35 years before filing the trade mark application, at which point the goodwill of the partnership that dissolved in 1982 must have long dissipated (this is all of the more so given that no sale figures for the records the band released whilst Mr Deane was a member were provided and the evidence suggests that a substantial part of the goodwill in MODERN ROMANCE was generated after Mr Deane left) or Mr Deane must have abandoned any interest in it having asserted no claim for at least 28 years⁹. **I also find that when Mr Deane filed the trade mark application, he had no goodwill, whether residual or otherwise, by reference to the name MODERN ROMANCE.**

30. Finally, as regards Mr Deane’s claim that he continued to receive royalties relating to the original songs and recordings, which were made by the band whilst he was a member, there is no evidence of it. In any event, this is not a dispute about copyright. Even if Mr Deane had received some royalties (a circumstance which is not proven), that fact alone does not establish that he has retained any interest in the band’s name or that he generated his own goodwill under the same name since 1982. Even less, does this establish that in 2017 (that is to say 35 years after Mr Deane left the band), there was still a link, in the minds of the public, between Mr Deane and the name MODERN ROMANCE. Whilst Mr Deane stated that he was a pop star, that claim is not supported by any evidence. In particular, there is no evidence or information about Mr Deane featuring in the press or being known in the 1980s as the founder and lead singer of MODERN ROMANCE, which means that Mr Deane has failed to prove that the mark MODERN ROMANCE was (and is) distinctive of him.

31. The next question I shall consider is whether, at the relevant date, Mr Kyriakou had a protectable goodwill in the name MODERN ROMANCE to sustain an action for passing off against Mr Deane.

⁹ By the time he sent the Facebook message in 2010

Mr Kyriakou's goodwill

32. As Mr Brabin accepted, the legal status of the band and the ownership of the goodwill during the period between August 1982 (when Mr Deane left) and 1986 (when the band split), is not clear. In any event, in light of the facts and matters set out below it does not matter.

33. Between 1986 and 1999, the name MODERN ROMANCE was used infrequently by Mr Jaymes with whom, Mr Brabin explained, Mr Kyriakou worked as a session musician. In 1999 Mr Jaymes agreed to Mr Kyriakou having exclusive rights in the name. In the same year, Mr Kyriakou recruited some musicians and began performing as MODERN ROMANCE. Since then, Mr Kyriakou has carried on touring and releasing music under that name. He has played in the region of 60 gigs in the UK in the sixteen-year period between 2001 and 2017. He also re-recorded original songs and released a new album in 2002 which consisted mostly of re-recorded MODERN ROMANCE hits. Finally, he set up a website in 2003 to promote the band.

34. The fact that Mr Kyriakou has been using the name since 1999 is not disputed. Further, Mr Kyriakou has supplied turnover figures and marketing figures which are not insignificant, namely £80K in turnover and £35K in marketing (and recording) spent. Although no invoice or ticket samples were provided, the advertising material for some of the concerts performed by MODERN ROMANCE between 2002 and 2017 and the track listings relating to records released by MODERN ROMANCE between 2002 and 2014 corroborate Mr Kyriakou's evidence that he has been performing and releasing music under the name MODERN ROMANCE and has been holding the assets generated under that name. During all this period, Mr Kyriakou was the only continuing member of the band who carried on using the name. **Accordingly, I find that as a result of Mr Kyriakou's uninterrupted use of the mark between 1999 and 2017 in relation to live and recorded performances, there was still a more than trivial¹⁰ goodwill in the name MODERN ROMANCE at the relevant date. The owner of that goodwill was Mr Kyriakou.** In this connection, I note that in *Powell v Turner* [2013] EWHC 3242, Mr Recorder Campbell, as an Enterprise Judge, stated

¹⁰ *Hart v Relentless Records* [2002] EWHC 1984 (Ch),

that a member of a band still performing as Wishbone Ash was entitled to register that name, despite objections from an ex-member of the band. He found that:

“100. The case is a paradigm example of the sorts of difficulties which can arise where there is no written (or indeed any) agreement relating to ownership of the name. The situation is complicated still further by the fact that only the First Wishbone Ash, the Second Wishbone Ash, and the First Reunion Wishbone Ash were clearly partnerships, and neither side relies on the First Reunion Wishbone Ash. Moreover the First Reunion Wishbone Ash partnership had ceased to exist in 1991, which is 7 years before 1998, and the members of that partnership had acquiesced in the developments since that date.

101. In my judgment the sole owner of the goodwill in the name Wishbone Ash as at February 1998 was the Claimant. I reach this conclusion by dismissing all of the other possibilities advanced by the parties, for the reasons given above, leaving this as the most logical. It is not as simple as saying that that the Claimant was the “last man standing”. It is the combination of the Claimant’s position in February 1998 plus the point that all other possible contenders for ownership of that goodwill had, since at least 1994 if not before, acquiesced in that position.”

35. Here Mr Deane did not take any steps to prevent Mr Kyriakou carrying on using the name MODERN ROMANCE until 2010, when he contacted Mr Kyriakou via Facebook saying that had learned of his activity and that he was not entitled to use the name. But even then, the matter was not seriously pursued until Mr Deane registered the mark in 2017 and contacted Mr Kyriakou (and agents and promoters with whom Mr Kyriakou was working) claiming he had rights in the name. At some point in 2017 Mr Deane (together with Mr Gendler) resumed use of the name, but there is no evidence of that and neither side suggested it mattered.

36. As regards Mr Jaymes, after 13 years of negligible use, he was content with Mr Kyriakou reforming the band but was no longer interested in (and did not want to be part of) it. Mr Jaymes personally gave Mr Kyriakou exclusive rights to use the name for trading purposes. Mr Deane contends that the agreement signed by Mr Jaymes in

1999 is not valid, or alternatively, is akin to a licence to use the name; however, I cannot see how this makes any difference to the outcome of the case. There was no further involvement of Mr Jaymes in the band since 1999 until present day, that is to say for nearly 20 years and did not intervene in the present proceedings to claim any right in the name. Neither did any other member of the band do.

37. Finally, as regards Mr Deane's claim that Mr Kyriakou has been playing the songs that he had written and performed, there is nothing to support Mr Deane's claim that he co-wrote the song "Best Years of Our Lives". In any event, it seems to me that even allowing for the fact that Mr Kyriakou's band is a retrospective view of the original band, the most successful incarnation of that band is the band which existed between 1982 and 1986 (as confirmed by the evidence which refer to re-recording of tracks released in that period), after Mr Deane left. It would therefore be very difficult for Mr Deane to run an argument that (i) Mr Kyriakou's activity has generated a goodwill or public awareness, for the original band prior to August 1982 as well as for the new band and (ii) he should benefit from that revived goodwill.

MISREPRESENTATION AND DAMAGE

38. In *Neutrogena Corporation and Another v Golden Limited and Another*, 1996] RPC 473, Morritt L.J. stated that:

"There is no dispute as to what the correct legal principle is. As stated by *Lord Oliver of Aylmerton in Reckitt & Colman Products Ltd. v. Borden Inc. [1990] R.P.C. 341 at page 407* the question on the issue of deception or confusion is

"is it, on a balance of probabilities, likely that, if the appellants are not restrained as they have been, a substantial number of members of the public will be misled into purchasing the defendants' [product] in the belief that it is the respondents'[product]"

The same proposition is stated in *Halsbury's Laws of England 4th Edition Vol.48 para 148* . The necessity for a substantial number is brought out also in *Saville*

Perfumery Ltd. v. June Perfect Ltd. (1941) 58 R.P.C. 147 at page 175 ; and *Re Smith Hayden's Application* (1945) 63 R.P.C. 97 at page 101.”

And later in the same judgment:

“... for my part, I think that references, in this context, to “more than *de minimis*” and “above a trivial level” are best avoided notwithstanding this court's reference to the former in *University of London v. American University of London* (unreported 12 November 1993) . It seems to me that such expressions are open to misinterpretation for they do not necessarily connote the opposite of substantial and their use may be thought to reverse the proper emphasis and concentrate on the quantitative to the exclusion of the qualitative aspect of confusion.”

39. In *Harrods Limited V Harrodian School Limited* [1996] RPC 697, Millett L.J. described the requirements for damage in passing off cases like this:

“In the classic case of passing off, where the defendant represents his goods or business as the goods or business of the plaintiff, there is an obvious risk of damage to the plaintiff's business by substitution. Customers and potential customers will be lost to the plaintiff if they transfer their custom to the defendant in the belief that they are dealing with the plaintiff. But this is not the only kind of damage which may be caused to the plaintiff's goodwill by the deception of the public. Where the parties are not in competition with each other, the plaintiff's reputation and goodwill may be damaged without any corresponding gain to the defendant. In the *Lego* case, for example, a customer who was dissatisfied with the defendant's plastic irrigation equipment might be dissuaded from buying one of the plaintiff's plastic toy construction kits for his children if he believed that it was made by the defendant. The danger in such a case is that the plaintiff loses control over his own reputation.

40. Mr Deane's mark MODERN ROMANCE is registered for *live performances by a musical band* and *musical group entertainment services*. Given that the signs and the services involved are identical, there will undoubtedly be misrepresentation, to the

effect that a promoter booking Mr Deane's services and a member of the public purchasing a ticket to go and see one of Mr Deane's concerts will expect to see Mr Kyriakou's band. This is corroborated by the evidence filed by Mr Kyriakou that misrepresentation has occurred. Misrepresentation to this effect will cause damage the economic value of Mr Kyriakou's goodwill and reputation of the business signified by the name MODERN ROMANCE.

41. I find that that at the relevant date Mr Kyriakou was entitled to have prevented the use of the later mark under the law of passing-off because such use would have been damaging to his goodwill. The ground under section 5(4)(a) of the Act succeeds.

CONCLUSIONS

42. The application for a declaration of invalidity succeeds in full. Under Section 47(6) of the Act, the registration is deemed never to have been made.

COSTS

43. Andros Kyriakou has been successful and is entitled to a contribution towards its costs. Awards of costs are governed by Tribunal Practice Notice (TPN) 2/2016. Using that TPN as a guide, I award costs to the opponent on the following basis:

| | |
|--|--------|
| Official fees: | £200 |
| Preparing a statement and considering the other side's statement: | £200 |
| Filing evidence and considering the other side evidence: | £500 |
| Attending a hearing: | £800 |
| Total: | £1,700 |

44. I order Geoffrey Deane and Paul Gendler to pay Andros Kyriakou the sum of £1,700 as a contribution towards his costs. This sum is to be paid within fourteen days of the expiry of the appeal period or within fourteen days of the final determination of this case, if any appeal against this decision is unsuccessful.

Dated this 01st day of May 2019

Teresa Perks

For the Registrar

The Comptroller – General