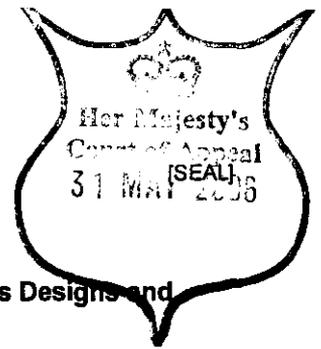




IN THE COURT OF APPEAL, CIVIL DIVISION

7111

REF: A3/2006/1007



Macrossan -v- Comptroller General of Patents Designs and Trade Marks

ORDER made by the Rt. Hon. Lord Justice Jacob

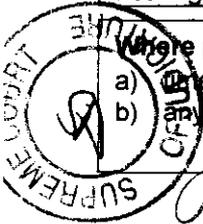
On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal

Decision: granted.

Reasons
1. The issue of the Art.52 exclusions is of public interest, sufficiently uncertain and thus worthy of consideration by the Court of Appeal.
2. The arguments in the skeleton argument have a real prospect of success

Information for or directions to the parties
I am simultaneously granting permission to appeal in a case called Aerotel v Telco, Lewison J 3rd May 2006 [2006] EWHC 997 (Pat), CA Ref 2006/1067. In that case I have directed that the Comptroller should appear by counsel to assist the Court. He is the respondent in this case and ought to appear by counsel in any event. The appellant in this case is in person and, in view of the fact that he is in Australia, has asked that the appeal be heard on paper. I do not direct that. It may be that the appellant will feel that his interests will be sufficiently guarded by the court not to appear himself, (for after all a pure question of law is involved). If he wishes for video conferencing of the hearing that the Office should make arrangements accordingly.

Where permission has been granted, or the application adjourned
a) The estimate (excluding judgment) 1 1/2 days for both cases
b) any expedition yes in view of the fact that expedition has been granted in Aerotel



By the Court Robin Jacob

Signed:
Date: 26 May 2006

- Notes
(1) Rule 52.3(6) provides that permission to appeal will only be given where -
a) the Court considers that the appeal would have a real prospect of success; or
b) there is some other compelling reason why the appeal should be heard.
(2) Rule 52.3(4) and (5) provide that where the appeal court, without a hearing, refuses permission to appeal that decision may be reconsidered at a hearing, provided that the request for such a hearing is filed in writing within 7 days after service of the notice that permission has been refused. Note the requirement imposed on advocates by paragraph 4.14A of the Practice Direction.
(3) Where permission to appeal has been granted, the appeal bundle must be served on the respondents within 7 days of receiving this order (see para. 6.2 of the Practice Direction to CPR Part 52). A letter of notification will be sent to the appellant or his solicitors, as soon as practicable (see para. 6.3).

**DATED 26TH MAY 2006  
IN THE COURT OF APPEAL**

**MACROSSAN**

**- and -**

**COMPTROLLER-GENERAL OF PATENTS  
DESIGNS & TRADE MARKS**

**ORDER**

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Lower Court Ref: CH2005APP0248**