

## COMMONWEALTH OF AUSTRALIA

*Trade Marks Act 1995 (Cth)*

IN THE MATTER OF  
Trade Mark Application No.  
1379834 CMA ECOCYCLE in  
Classes 40 and 42 in the name of  
CMA Corporation Limited  
(Applicant)

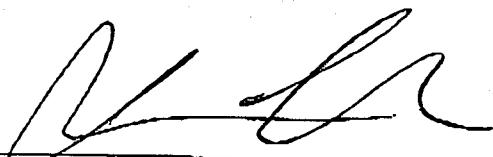
## STATUTORY DECLARATION

I, Lynne Elizabeth Anne Peach of 88 Phillip Street, Sydney, New South Wales 2000, make the following declaration under the *Statutory Declarations Act 1959 (Cth)*:

1. I am a partner of Minter Ellison Lawyers and have the primary carriage of this matter on behalf of the Applicant. I am authorised to make this declaration on behalf of the Applicant.

**Extension of time**

2. The Applicant applies, under section 224 of the *Trade Marks Act 1995 (Cth)*, for an extension of the acceptance date for trade mark application no. 1379834 CMA ECOCYCLE (**Application**) from 3 September 2012 to 3 December 2012 to allow for further consideration of the Application.
3. The Applicant's worldwide portfolio of trade mark applications containing the letters 'CMA' have been the subject of legal proceedings commenced by CMA CGM (Societe Anonyme a Directoire) (**CMA CGM**).
4. In Australia, trade mark application no. 1085059 CMA logo (**CMA Logo**) in the name of the Applicant has been the subject of an opposition proceeding in the Trade Marks Office and an appeal in the Federal Court of Australia (Proceeding No. NSD 1807 of 2011). On 23 May 2012, the Applicant and CMA CGM entered into a Settlement & Co-Existence Agreement (**Agreement**) in resolution of those legal proceedings. The

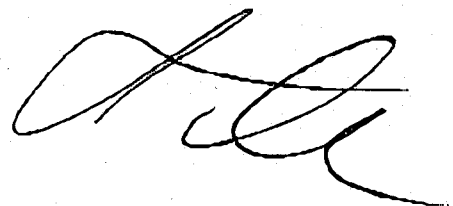


Agreement imposes certain co-existence obligations on the Applicant in respect of its present and future trade mark applications containing the letters 'CMA'.

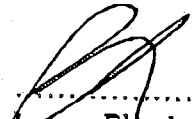
5. I am informed by Trevor Schmitt, Chief Financial Officer and Company Secretary of the Applicant, that the Applicant's delay in responding to the second examination report issued by the Trade Marks Office Examiner in respect of the Application is due to the Applicant:
- (a) incurring significant financial and time costs in defending the legal proceedings commenced by CMA CGM in respect of the CMA Logo;
  - (b) not wishing to incur further financial and time costs in seeking to have the Application accepted for registration without having resolved the legal proceedings in respect of the CMA Logo. In particular, it would be likely that CMA CGM would have similarly opposed the registration of the Application if it were successful in opposing the registration of the CMA Logo; and
  - (c) considering its co-existence obligations under the Agreement in respect of present and future trade marks containing the letters 'CMA' and the extent to which they impact upon the registration of the Application.

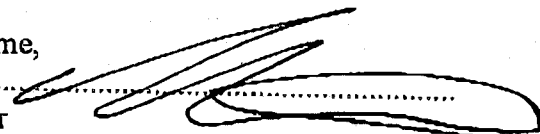
**Prejudice to the Applicant if extension not granted**

6. The Applicant will suffer prejudice if it is not granted an extension of the acceptance deadline given the Applicant has already incurred reasonable financial and time costs in seeking to overcome the objections and citations raised by the Trade Marks Office Examiner in her first examination report.
7. If the extension is not granted, the Applicant will lose its opportunity to register the Application and its significant investment in pursuing registration of that mark.
8. I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.



DECLARED at SYDNEY on this 31 day of August 2012

  
.....  
Lynne Elizabeth Anne Peach

Before me,  
.....  
Solicitor 

JONATHON FRIEDRICH  
LAWYER  
MINTER ELLISON  
88 PHILLIP STREET SYDNEY 2000

**Certificate under section 34 (1)(c) of Oaths Act 1900**

*\*Please cross out any text that does not apply*

I **JONATHAN JEFFREY FRIEDRICH**

, a **SOLICITOR**

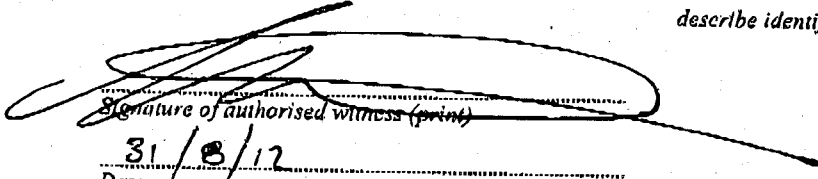
.....  
*insert name of authorised witness*

.....  
*insert qualification to be authorised witness*

certify the following matters concerning the making of this statutory declaration by the person who made it:

1. \*I saw the face of the person ~~or \*I did not see the face of the person because the person's face was covered, but I am satisfied that the person had a special justification for not removing the covering.~~
2. \*I have known the person for at least 12 months ~~or \*I have not known the person for at least 12 months, but I have confirmed the person's identity using an identification document and the document I relied on was~~

.....  
*describe identification document relied on*



.....  
*Signature of authorised witness (print)*

**31/8/12**  
.....  
*Date*

**JONATHAN FRIEDRICH  
LAWYER  
MINTER ELLISON  
88 PHILLIP STREET SYDNEY 2000**